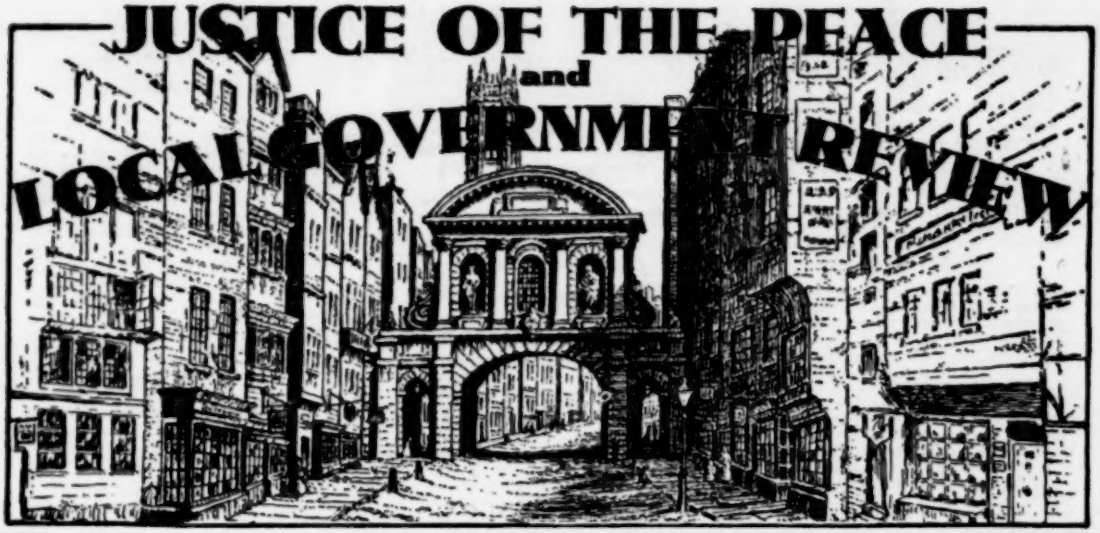

VOL. CXV. LONDON: SATURDAY, JUNE 2, 1951. No. 22

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APPLICATIONS are invited for the appointment of an Assistant Solicitor at a salary in accordance with the National Joint Council's Scale as under:

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Forms of application and conditions of appointment may be obtained from the undersigned. Local Government experience is desirable but not essential.

Applications on the official form, with copies of two recent testimonials, must be received by me not later than June 16, 1951.

Canvassing will be a disqualification.

J. HAYDON W. GLEN,
Town Clerk.

Town Hall,
Stockport.

CITY OF LIVERPOOL

Appointment of Male Probation Officer

APPLICATIONS are invited for the above full-time appointment.

Applicants must be not less than 23 nor more than 40 years of age, unless at present serving as full-time Probation Officer.

Salary and appointment will be in accordance with the Probation Rules, 1949, and the successful candidate will be required to pass a medical examination and to contribute to a superannuation fund.

Application forms can be obtained by sending a stamped and addressed envelope to the undersigned, and must be completed and returned not later than June 15, 1951.

H. A. G. LANGTON,
Clerk to the Justices and Secretary to the Probation Committee.

City Magistrates' Courts,
Dale Street,
Liverpool, 2. (2608)

DEPARTMENT OF JUSTICE NEW ZEALAND

APPLICATIONS are invited from suitably qualified persons to fill the position of **SENIOR PROBATION OFFICER (Female), Auckland.**

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The High Commissioner for New Zealand,
415 Strand,
London, W.C.2,

with whom completed applications (accompanied by copies only of two recent testimonials) should be lodged not later than June 30, 1951.

CITY OF LIVERPOOL

Town Clerk's Department

APPLICATIONS are invited for the appointment of Assistant Prosecuting Solicitor. Salary: £1,000 × £50—£1,250 per annum.

Application forms, returnable by June 16, 1951, together with details of duties and conditions of appointment, may be obtained from the undersigned.

The appointment is superannuable and subject to the Standing Orders of the City Council. Canvassing disqualifies.

THOMAS ALKER,
Town Clerk.

Municipal Buildings,
Liverpool, 2.
May, 1951. (JA. L603).

BOROUGH OF STAFFORD

Deputy Town Clerk

APPLICATIONS are invited for the above appointment from Solicitors with Local Government experience at a salary within the scale A.P.T. IX (£750×£50 to £900 a year). The amendments to the salary scales approved by the National Joint Council are under consideration.

A house owned by the Council is available to rent.

Applications, accompanied by copies of three recent testimonials, to be received not later than Thursday, June 14, 1951.

T. BROUGHTON NOWELL,
Town Clerk.

Borough Hall,
Stafford.

CHISLEHURST AND SIDCUP URBAN DISTRICT COUNCIL

Clerk's Department

APPLICATIONS are invited for the permanent post of Legal and General Clerk (Male). Salary in accordance with the Clerical Division of the national scales, *viz.*, £445—£490 per annum, plus London "weighting" (£20 age 21-25 years; £30 age 26 and over).

Forms of application and further particulars may be obtained from the undersigned, to whom completed applications should be returned not later than Saturday, June 16, 1951.

Canvassing will disqualify.

E. T. CHATER,
Clerk of the Council.

Council Offices, Sidcup Place,
Sidcup, Kent.
June 1, 1951.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

Witnesses in Waiting

Few people welcome the occasion for attending a court in the capacity of witness. If it happens to be a criminal court that only makes matters worse, as they probably say they would rather not be mixed up in such things. It is not even like serving on a jury, which gives a not unnatural sense of important responsibility and of doing public service. Yet the witness also takes a not unimportant part in the administration of justice.

What many witnesses complain of is the long period of waiting, maybe hours, maybe days, in uncomfortable surroundings. This matter has been the subject of comment in the press recently, and one result has been to show that clerks of the peace and other officials are not unmindful of the convenience of witnesses, and are doing all they can to mitigate hardship. At quarter sessions or assizes the business may be over in a single day, but in busy courts the proceedings may last many days. The practice is not to require witnesses to attend every day from the opening of the session, but to summon them on the day when it is likely they will be required to give evidence, but always bearing in mind that it is undesirable that a judge or a bench of justices, to say nothing of others engaged, should be kept waiting for a considerable time because a case has come to an end sooner than was expected and the witnesses in the next are not yet in attendance.

Some delays are inevitable, and witnesses in criminal cases may be consoled a little, in indictable cases at all events, by being assured that the question of expenses will not be overlooked.

A further cause of dissatisfaction, which applies in the magistrates' courts as well as in the higher courts, is often that there is no proper waiting room and lavatory accommodation for witnesses. This is certainly a legitimate ground for complaint at many courts. The trouble is not that it is not realized nowadays, but that money, materials and labour are not available for extensive structural improvements such as are admittedly desirable. At present, we doubt not, what can be done is being done, and canteen accommodation is being provided as one amenity where possible.

Perhaps one comment is permissible without minimizing the importance of the matter. It is that experience shows that where there is good waiting-room accommodation many people simply will not use it, preferring to hang about in halls and vestibules, possibly because they fear they will not know when they are wanted in court, or perhaps because some people seem to prefer standing about and chatting to one another rather than sit quietly in a room reading, or talking in the subdued tone called for when others wish to read.

Identification of Absent Witness

A novel point was raised recently in a trial before the President in the Circuit Criminal Court in Eire in the case of *The People* v. *Maguire*, a note of which appears in *The Irish Law Times and Solicitors Journal* for April 28. It was in fact the first time that s. 9 (1) of the Criminal Justice Act, 1951 (which appears to correspond, more or less, to s. 13 of the English Act of 1925), had been brought into operation. The prosecution sought to use in evidence the deposition of a witness in respect of whom a medical practitioner gave evidence that she was too ill to come to the court. The district court clerk gave evidence that he saw a lady bearing the name of the absent witness sign the deposition and that the accused was given an opportunity to cross-examine her. He also proved the signature of the justice. At this point, counsel for the defence submitted that it was necessary to establish that the deponent and the sick person were one and the same. The learned president agreed with this submission, but eventually the deposition was admitted by consent.

The necessary evidence of identity is generally easy to produce, but it is of course essential that the person who testifies to the inability of the witness to travel, or some other person, should be able to prove that the person who gave evidence at the preliminary hearing is also the person who is proved to be unable to attend the trial.

Road Accidents

We are glad to see that our contemporary *The Magistrate* keeps the question of road accidents before the members of the Magistrates' Association, since there is no doubt that magistrates can play an important part in the campaign for road safety.

In the current issue, Mr. J. P. Eddy, K.C., Stipendiary magistrate for East Ham and West Ham contributes an article under the title "New Approach to Road Traffic Cases."

After commenting on the serious increase in the 1950 statistics compared with those of 1949, the article turns to the question of practical measures for the prevention of accidents. Reference is made to the use of plain clothes traffic police in Oxfordshire, still in the experimental stage, and Mr. Eddy adds: "For my own part I can see no objection to the use of plain clothes motor patrols for the purpose of checking reckless behaviour on the roads any more than I can to the employment of plain-clothes police officers to detect offenders in other fields of law breaking." This strikes us as a perfectly reasonable way of looking at the question.

Turning to the duties of the magistrates, Mr. Eddy quotes Lord Elton as saying: "For myself, with many others, I have no shadow of doubt that if it could be known all over the country that plain-clothes police patrols were about, and that all over the country the courts were determined to impose serious sentences for serious offences, then in the space of twelve months we could halve the casualty list and subsequently halve it, and halve it again." Even if Lord Elton claimed rather much, it can hardly be doubted that the policy he advocated would have a substantial effect.

Many people will agree with Mr. Eddy that fear of disqualification could be a powerful deterrent to reckless or careless driving, and that the courts might well make a freer use of the power to disqualify, sometimes for a short period, sometimes for long.

Probation in Devonshire

The change in status of a probation committee effected by the coming into operation of s. 37 of the Justices of the Peace Act, 1949, is noted in the report of the County Probation Committee for Devon for the year 1950. By its incorporation full responsibility for the performance of its duties falls upon the members of the committee, which is no longer a committee of quarter sessions. Its duties are defined by the Criminal Justice Act, 1948, and the Probation Rules, 1949. With the approval of the Secretary of State, a sub-committee has been appointed and certain matters have been delegated to it, including the appointment of probation officers other than senior or principal.

It appears that the county is still served largely by part-time probation officers, and that Home Office inspectors have urged the consideration of appointing whole-time officers. This, it was suggested, might well result in putting certain part-time probation officers on a whole-time basis.

The position with regard to case committees has not been entirely satisfactory. The report says that the chairman of the committee had been informed that there were still some case committees which did not meet regularly to discuss with the officers the cases under their care. The committee regards this work as essential and points out that it is required by the Probation Rules, and steps have been taken to remedy the position.

The vexed subject of pre-trial inquiries is referred to as follows: "The Criminal Justice Act, 1948, sch. 5, para. 3 (5), makes it the duty of the probation officer to inquire, in accordance with the directions of the court, into the circumstances or home surroundings of any person with a view to determining the most suitable method of dealing with the case.

"The committee has previously discussed these provisions and has recommended the justices to take advantage of the services of the probation officers in all cases, whether juvenile or adult, when it appears that probation would be a suitable method of treatment. In many courts the clerk to the justices gives notice to the probation officer of any case in which a report will be required, but there is a number of courts in which this is not done and sometimes it becomes necessary to adjourn the proceedings in order that inquiries might be made. The committee desires again to stress the value to the court of a report on the circumstances or home surroundings of a defendant if there is a possibility of his becoming subject to a probation order.

"The committee appreciates that the duty to make pre-trial inquiries is to be carried out "in accordance with the directions of the court," and that in some cases the desirability of such inquiries being made may not become obvious until the defendant is before the court. The result of such inquiries should not, of course, be disclosed to the court until the defendant has been convicted or found guilty of the offence charged."

The report shows that the number of persons placed on probation continues to decrease, while the number of persons conditionally discharged is higher than the average number of persons previously bound over without supervision. The new procedure under s. 8 of the Criminal Justice Act, 1948, which deals with the commission of a further offence during a period of probation or conditional discharge, is considered an improvement upon the earlier law. The committee recommends justices not to hesitate about making use of this section or s. 6.

As to juveniles, appearing before the juvenile courts for other than trivial offences, the number was practically identical with the figure for the previous year, "which seems to indicate a return to the more regular incidence of juvenile delinquency of the period before the war."

There is an interesting paragraph on probation and mental treatment: "Considerable use has been made in the county of the provision that a probation order may require the offender to reside in a mental hospital for a period not exceeding twelve months, but experience to date would not suggest a very high percentage of real successes in these cases, probably because in many cases residential treatment has been applied too late in the course of the mental trouble or, as is found in a number of these cases, that really sincere and genuine co-operation on the part of the offender is lacking."

Delayed Orders for Possession

The decision in *Jones* v. *Savery* [1951] 1 All E.R. 820 should be noticed by readers concerned with proceedings for possession of property, in the county court or courts of summary jurisdiction. In both types of court there is often a natural and human instinct, when an order for evicting a tenant has to be made, to suspend its operation. Where dwelling houses are in question, there are statutory provisions, familiar enough (we hope) to our readers, if only because we have given so much space to them in recent years. These provisions sometimes work automatically; sometimes at discretion of the court. *Jones* v. *Savery*, *supra*, did not relate to a human dwelling, but to a stable; no defence to the landlord's claim was attempted, but the county court judge postponed execution of the order for possession for three months. He also deprived the landlord of his costs. This was in January, 1951. As the case could not be reached in the Court of Appeal, even though the tenant did not appear, until the middle of March, the landlord gained little in time by the appeal—costs were, presumably, the reason for it, and, since the court awarded them, it is to be hoped he will secure them in fact. By the County Courts Act, 1888, the judge had express power to postpone an order for possession. That power does not appear in the Act of 1934, and the Court of Appeal held that the omission was deliberate. Even under the Act of 1888, too long a postponement (upon compassionate grounds) had in *Sheffield Corporation* v. *Luxford*; *Same* v. *Mowell* (1929) 93 J.P. 235 been held not to be a judicial exercise of discretion; the Divisional Court held that four or five weeks was as much as should be given, unless in wholly exceptional circumstances. Under the Act of 1934 the Court of Appeal has now said that a month may be regarded as inherent in the county court's jurisdiction, presumably because a tenant can scarcely get himself and his belongings (in this case, a horse) out on the spur of the moment, but that no more ought to have been given. As for the costs, the court went out of its way to remark upon the leniency which the landlord and his solicitor had displayed, and said that the reason why the judge below

deprived the landlord of costs could only have been that he misdirected himself upon the law governing the order for possession. Denning, L.J., pointed out that the landlord could have ejected the horse summarily, and that it would have been a strange result, if he was to have a delay imposed upon him, as well as payment of his legal costs, through coming into court.

The moral of the whole thing is that property owners still have a right, in principle, though sometimes not in practice, to their own property, and are not to be kept out of it where they have taken the proper steps for recovering it and there is no statutory warrant for postponing the operation of their remedy.

Father of Nullius Filius

We dealt at length at p. 133, *ante*, with several permutations of sexual irregularity capable of being associated with the conception of "family" in para. (*g*) of s. 12 (1) of the Rent and Mortgage Interest (Restrictions) Act, 1920. We there said that, applying the test of ordinary language, the male survivor of an illicit (but established) union was less likely to be spoken of as a member of the deceased partner's family than was a surviving female partner—this because even today the male would ordinarily be regarded as the head of the household, and the other members as his family. Since we dealt with the problem the census has, unwittingly, supported this "headship" method of approach. We also pointed out that, approaching along a different line, one could reach the same conclusion. The purpose of the paragraph is to avoid hardship from the breaking-up of families: typically, it is a more serious thing for a woman to lose her home as well as the breadwinner, than it is for a man to leave the house where he has lived with a woman now deceased. In *Gamman* v. *Ekins* [1950] 2 All E.R. 140, the Court of Appeal had, when we wrote, just decided a case along these lines. But there were no children of the illicit union, and the Court left open the question, how to deal with a case where the surviving male partner was left with a child or children of the union. This case has now arisen in *Perry* v. *Dembowski* (*The Times*, *May* 4, 1951). A Mrs. Bild, originally contractual tenant of the house in question, had become a statutory tenant; she and Dembowski had lived in the house since 1943, and a child had been born in 1946. Dembowski had apparently admitted paternity, but no steps had been taken to adopt the child, nor apparently had there been an affiliation order, so that, upon its mother's death, it was literally *nullius filius* in law, and had no claim upon Dembowski. The latter seems to have alleged in the alternative that he was a member of the family of Mrs. Bild, as putative father of her child, or that the child was a member of her family, entitled to be regarded as "tenant" within the meaning of para. (*g*), and that he was entitled to the benefit of the child's status by reason of his being the child's natural guardian.

The Court of Appeal, supporting the decision of the county court, negatived the claim in both forms, though leaving it still open to some other man similarly placed to show that he has adopted the child of whom he claims (or admits) that he is the father, or, having in fact maintained the child during its mother's lifetime, is now setting on foot steps to adopt it formally, or, perhaps, that he has been regularly appointed guardian *ad litem* for purposes of the case before the court.

The issue can really be put thus, that the man in such a case cannot make the best of both worlds, cannot, that is to say, enjoy the freedom from obligations which English law allows to the putative father of an illegitimate child where no affiliation order has been made, and at the same time, to the detriment of a third person, be put in a legal position (tenant by succession to the child's mother), which is itself an artificial creation of the law.

To the student of social history there is an interest other than the purely legal. Everyone has heard of borrowing or hiring (sometimes stealing) children to be used as a lure by beggars. In the cases mentioned in this note there is a sort of parallel, inasmuch as the housing shortage coupled with modern legislation have brought about a state of things in which it may be advantageous for a man to be affiliated with a bastard child—the position which the bastardy law has always assumed that a man would desire to avoid.

SURETY OF THE PEACE

[CONTRIBUTED]

It is axiomatic that the jurisdiction of justices is the creation of statute. Their right to hear and determine any matter brought before them must, in general, have been conferred specifically by Act of Parliament, and it would appear to follow logically that their adjudication on the issue, and the sanctions which they may employ, are similarly prescribed, and that they must be within the statutory limits.

Thus, in *Paley on Summary Convictions*, a work frequently cited as an authority, it is stated (8th Edn. at p. 274) that "the adjudication (of punishment after finding a defendant guilty) in point of law, must be such as the premises warrant, for though the conclusion of the magistrate as to the facts is absolute, it is by no means so as to the legal consequences of those facts, which it cannot in the least alter or extend."

This proposition was well demonstrated in *R.* v. *Willesden Justices, Ex parte Utley* [1947] 2 All E.R. 838. In that case, justices purported to impose a fine greater than the statutory maximum for the offence charged, and on *certiorari*, the conviction was quashed, Lord Goddard, C.J., observing, in the course of his judgment, that in his opinion "if a court imposes a sentence which is not authorized by law for the offence for which the defendant is convicted, the conviction is bad on its face, and can be brought up here to be quashed."

It frequently happens that justices wish, for various reasons, to order a defendant, who has been proved to have done acts which constitute a contravention of some statute, to enter into a recognizance that he will, in future, be of good behaviour or keep the peace, as the case may be, and that in cases other than those in which the right to take such a recognizance has been given by statute. It seems not improbable that the changes made by the repeal of the Probation of Offenders Act under which such a recognizance could be part of the discharge without penalty have made such a course more attractive.

It was done, for instance, in *R.* v. *Sandbach, Ex parte Williams* (1935) 99 J.P. 251. One Williams, on pleading guilty to two charges of obstructing police officers in the execution of their duty, by warning a street bookmaker in order that he might evade arrest, was ordered to enter into a recognizance with sureties for his future good behaviour, in lieu of any other penalty. He applied by *certiorari* that the conviction be quashed, first on the ground that the magistrate had no power to make

such an order, since there was no reason to anticipate a breach of the peace, and secondly on the ground that he had thereby been rendered liable to a penalty greater than that imposed by statute for that offence. It was held that the powers invoked might be exercised where any breach of the *law* as distinct from a breach of the peace might be expected, and that they were limited only by judicial discretion. It is to be noted that no question as to the right of the magistrate to make such an order as an adjudication in respect of a specific offence was raised in this case.

This course has frequently been followed since, but it seems that the practice is in need of review, having regard to the decisions in *R.* v. *County of London Sessions Appeals Committee, Ex parte Metropolitan Police Commissioner* [1948] 1 All E.R. 72, and *R.* v. *C.L.S. Appeals Committee, Ex parte Beaumont* [1951] 1 All E.R. 232.

In the former case, a man was brought before a metropolitan magistrate, it being alleged that he had acted in a manner likely to cause a breach of the peace. He was ordered to enter into a recognizance for his future good behaviour under 34 Edw. III, c. 1, and thereupon gave notice of appeal to quarter sessions. He entered into a recognizance to prosecute his appeal, but before it could be heard, the Commissioner of Police applied for an order of prohibition to prevent it being heard, on the ground that the order of the magistrate was not a conviction, and that in those circumstances there was no right of appeal. It was held (Atkinson, J., dissenting) that such an order did not amount to a conviction, and that consequently no appeal would lie.

A number of interesting questions thereupon arise, two of which are of immediate importance to this inquiry. First, had the issue arisen as a result of circumstances similar to those in *R.* v. *Sandbach*, *supra*, *i.e.*, if the defendant had originally been charged with a specific offence, would a similar decision have been reached? Second, if that question be answered affirmatively, is the procedure in *R.* v. *Sandbach* within the statutory powers of a court of summary jurisdiction? It is to be noted as an ancillary point that if this practice be approved, it would appear to follow that a defendant dealt with in this way is denied any right of appeal.

In order to answer the first question, it is necessary to consider the judgments in detail. Lord Goddard, after pointing out that no appeal would lie unless the right to appeal were given by statute, and after referring to the statutes which confer that right from a decision of a court of summary jurisdiction, posed the question whether the order of the magistrate amounted to a conviction. He pointed out that the statute 34 Edw. III, c. 1, did not create any offence, and then said: "in the present case, I cannot agree that the order of the magistrate in any way amounts to a conviction. It is an exercise of the powers which have been exercised by justices for many centuries as a measure of preventive justice to take security from persons whose behaviour leads them to suspect that they will cause a breach of the peace, although up to the time they were brought before the court they have not done anything which could form the subject of a criminal charge." Throughout the remainder of the judgment, too long for complete reproduction, the emphasis is on the order of the court, and not on the facts which led up to the appearance of the defendant, and the whole argument could be applied, with equal force, to a case similar to *R.* v. *Sandbach*.

There is nothing in either of the other judgments contrary to this view, both are concerned with the results which follow from such an order, without reference to the antecedent events, and it seems inevitable that, even had the defendant in this case been charged with a criminal offence, a similar decision would have been reached, had the issue arisen in the same way.

That being so, it remains to consider the second question, *viz.*, whether such an adjudication, standing alone, is within the powers of a court of summary jurisdiction which has adjudged a defendant guilty of an offence.

As a preliminary consideration, it is interesting to note that in *Hayward & Wright's The Office of Magistrate*, the list of possible punishments (7th Edn. at p. 55) does not include the requirement of such a recognizance.

It is submitted, however, that the question can only be answered conclusively by consideration of the terms of the Summary Jurisdiction Act, 1848. By that Act, jurisdiction is given to justices in cases which fall into two broad classes, distinguishable by their results. The one, commenced by information, may result in conviction, whereupon the defendant is liable to be imprisoned or fined—the other, begun by complaint, may result in an order against the defendant. These two classes are referred to in this way throughout the Act. The important section, for the purposes of this argument, is s. 14, wherein it is provided that "... the said justice or justices, having heard what each party shall have to say as aforesaid, and the witnesses and the evidence so adduced, shall consider the matter and determine the same, and shall convict or make an order upon the defendant, or dismiss the information or complaint, as the case may be."

Thus all cases begun by information, in other words, all criminal matters, must result in dismissal or conviction, and this, it would seem, is in part the meaning of the quotation from *Paley*, above. From that, in the light of *Ex parte Utley*, *supra*, it would seem that an adjudication other than a fine or imprisonment within the limits provided, or other than one provided for in ss. 3 to 12 of the Criminal Justice Act, 1948, would be in excess of jurisdiction, and therefore liable to be quashed.

This argument is fortified by the judgments in *Ex parte Beaumont*, *supra*. There, a defendant was fined 40*s.* for an offence and was further ordered to provide sureties for good behaviour. He sought to appeal only against the order. Quarter sessions held, following *Ex parte Metropolitan Police Commissioner*, *supra*, that they had no jurisdiction to entertain the appeal and it was sought to compel them to do so by *mandamus*. Counsel for the appellant argued that such an order was within s. 36 of the Criminal Justice Act, 1948, which was not in force at the time the earlier case was decided, but the application was dismissed.

In the course of his judgment, Lord Goddard said: "It (the order) is not a penalty for the offence for which the applicant was brought before the justice. The penalty for the offence in the present case was the fine, but, the applicant being before the justice, and she being satisfied that there was a likelihood of his repeating the offence, she called on him to provide sureties against the repetition."

Hilbery, J., was more specific, saying: "The order ... was not an order which could be made in the exercise by the magistrate of the jurisdiction to hear and determine the charge ... In respect of that charge she exhausted her jurisdiction by awarding the maximum fine of 40*s.* ... The conviction of the applicant of the offence charged against him did not give the magistrate the power to make the order in question, nor did the magistrate make the order because of this conviction."

In other words, the Past, what the defendant has done, the Present, the punishment the court must decide, and the Future, the surety for good behaviour, must be kept separate and distinct in the minds of the tribunal, and the safest course for justices who wish to exercise their undoubted powers of preventive justice would seem to be first, to deal with the defendant in one of the ways indicated above, and *then*, after having done that, order him to give surety for his behaviour in the future.

WEIGHTS AND MEASURES LAW: PROPOSALS FOR REFORM

By R. A. ROBINSON, *Barrister-at-Law, Editor of Bell's Sale of Food and Drugs*

The Report of the Committee on Weights and Measures Legislation, which sat for over two years under the chairmanship of Sir Edward H. Hodgson, K.B.E., C.B., contains a comprehensive review of the laws now in force and many suggestions—including some of a bold and controversial character—for their improvement. In this category falls the recommendation that the Government should now take steps with a view to abolishing, within a definite period (probably not less than twenty years), all use of the imperial system of weights and measures and establishing in its stead the sole use of the metric system for trade purposes. This change, the committee recognizes, should be preceded by agreement with the Commonwealth and the U.S.A. for a simultaneous change on their parts, full discussion with industry and commerce to determine the period of transition, decimalization of the coinage, a long process of preparing the general public, and the preparation of schemes for the change-over, trade by trade, with provision for compensation wherever necessary. The fourteen members of the committee seem to be unanimous even with respect to this revolutionary proposal. There is no minority report. The President of the Board of Trade has stated in the House of Commons that while the Government cannot be regarded as in any way committed to accepting the recommendation for the eventual adoption of the metric system, views of the governments of other countries using the imperial system will be sought, and " most serious consideration " will be given to the subject as time permits.

A less drastic proposal is that the apothecaries', troy and pennyweight systems of measurement should be abolished after five years and that the trades and professions now using them should adopt in their place the metric system. For many years past, the British Pharmacopoeia Commission and the Pharmaceutical Society of Great Britain have advocated that the medical and pharmaceutical professions should work in the metric system only, and the British Pharmacopoeia already gives all its formulae, prescriptions, assays and tests in metric units only. The committee urges that the government should invoke the collaboration of all those concerned in this matter and should use its own direct influence to attain " this sensible and worthwhile goal."

WEIGHING AND MEASURING APPLIANCES

After discussing technical matters concerning units and standards of measurement, the committee proposes that existing regulations governing verification and stamping of appliances should be extended to cover liquid measuring instruments (including tank wagons for petrol, oil and milk), counting machines and volumetric measuring appliances, with an expanded definition of " trade " which would require penny-in-the-slot personal weighing machines to be stamped and periodically tested for accuracy. On the other hand, containers of prepacked liquids, while subject in other respects to Weights and Measures law, should not be regarded as " measures " requiring verification even though used as such, and milk bottles receive special consideration. More than 200 million milk bottles are made each year. A violent controversy raged between 1928 and 1935 on a proposal, then favoured by the Board of Trade, that all milk bottles used as measures should be required to be verified and stamped. The proposal was eventually abandoned. It is now suggested that milk bottles should be made to standard specifications by licensed manufacturers only under a scheme to be approved by the Board of Trade.

SHORT WEIGHT AND MEASURE

Part III of the committee's report deals with short weight and measure. Here, again, extensive changes in the existing law are suggested. First, it is recommended that the provisions which make it an offence to sell food deficient in quantity should be extended to all articles sold by weight, measure or number. With this there are separate recommendations that particular commodities should always be sold by measure, or by weight, or by number, or by one or other of these criteria. Thus, knitting wool, thread and the like should be sold by weight or length only. Candles, nails, soap and cotton wool by weight only. Tobacco by weight or number only. Liquid fuel and lubricating oil by measure or weight only. Solid fuel, with some exceptions, by weight only. Paint, in some cases by measure only, and in others by weight only. Further, in general all requirements to sell particular commodities by weight, measure or number only, should apply to transactions at all stages of distribution, wholesale as well as retail. This would require inspectors to carry out tests of weight and measure at factories and packing establishments. The inclusion of wholesale transactions is one of the proposals with respect to which Sir Hartley Shawcross has indicated that he would be unwilling to take early action because of the controversy which would be caused owing to the changes in commercial practice likely to be involved.

A great variety of suggestions for strengthening the existing law in its application to short weight and measure in food includes the following :

The present definition of " food " should be replaced by the wider definition embodied in the Defence (Sale of Food) Regulations, 1943. The requirement to prepare foods in specified weights should be extended to a wider range of foods, and many additional foods should be added to the lists of those which may only be sold by weight or by net weight. Certain wrapper allowances, now permissible, should be reduced and their use should be restricted. Indications of weight or measure should appear on the wrappers of pre-packed foods sold on self-service premises. The exemption of sales in petty amounts should be revised, the value of twopence being substituted for single pennyworths. There should be a remedy against misleading price-tickets, such as those on which 6*d.* for ½ *lb.* is so written as to appear as " 6½*d.*" for a " *lb.*" " Butchers' meat " should be re-defined so as to include rabbits and poultry. Fresh fish other than shell-fish should be required to be sold by weight only. Fancy bread in excess of 12*oz.* and sliced bread should be treated in the same way as loaves under weights and measures law. Many of the smaller fresh fruits and vegetables should be scheduled to be sold by weight only, and maximum tare allowances for containers should be prescribed by the Board of Trade.

ALCOHOLIC LIQUORS

A lengthy section of the report is devoted to sales of alcoholic liquors. The committee recommends that : (*a*) all draught sales in Great Britain of alcoholic liquor, with the exception of sparkling wines, liqueurs and cocktails, should be by lawful measure only, so that the giving of short measure becomes in all circumstances an offence under weights and measures law ;

(*b*) the above requirement should be altogether removed from the scope of the Licensing Acts; (*c*) the retailer of draught wines and spirits should be obliged when serving in quantities of less than one gill (5 fluid ounces) to use at any one time one measure only for wines and one measure only for spirits and that he should show by a clearly visible notice which lawful measures are in fact being served. This is intended to abolish in particular, sales of " nips " or " single " or " double " portions of spirits, and with it there is a recommendation that measures of one-fifth gill and two-fifths gill should be legalized—with the expectation that the former would be commonly used for spirits and the latter for wines; (*d*) similarly, the measure of one-third pint should be legalized to enable draught beer to be sold in quantities less than ½ pint; also additional measures of ⅔ quart and ⅔ pint should be legalized, so as to permit continued sale of bottled wines and spirits in the quantities now customary, provided that all such bottles should bear an indication of their minimum net content—either in imperial or metric units, or both, as desired; (*e*) all reference in statutes to " reputed quart " and " reputed pint " should be removed from the statute book at the earliest opportunity; (*f*) bottled beer, cider, whisky, gin, rum, port and sherry should be sold by lawful measure only, subject to an exception in the case of small bottles of beer and cider bearing an indication of a minimum net content of eight fluid ounces or less.

COAL, SAND AND BALLAST

Some minor changes are suggested in the law applying to the sale of coal, and many of the provisions now to be found in the byelaws of local authorities should be embodied in national legislation. But retailers of coal should no longer be under an obligation to carry weighing machines on vehicles delivering coal. The present exemption of rail wagons and canal barges from some requirements should be withdrawn. Requirements applying to the sale of sand and ballast should be extended to Scotland, and should apply to agricultural salt and chalk, lime, earth, chippings and all fertilizers sold in bulk. Railway wagons carrying commodities in this class should no longer be excluded from the definition of " vehicle."

ADMINISTRATIVE AUTHORITIES

From the above summary of the committee's proposals, it will be clear that the duties of enforcing authorities and their officers will be greatly enlarged if effect is given to the recommendations. The last part of the report therefore concerns itself with administration and finance. After considering the desirability of transferring responsibility for administration to the central government the committee recommends that local authorities should continue to administer weights and measures law. But the number of enforcing authorities should be greatly reduced. The task of reorganization would need, it is said, to be taken in two stages. Two years after the passing of a new Act based on the committee's recommendations, the following units of local government should continue to be weights and measures authorities: in England and Wales, the councils of counties and county boroughs, the City of London corporation; and the corporations of Luton, Poole and Cambridge (the only municipal boroughs, with populations exceeding 75,000, now exercising the duties); in Scotland, the councils of counties, councils of cities and the large burghs specified in the First Schedule to the Local Government (Scotland) Act, 1947.

This would involve the deprivation of thirty-seven English and Welsh boroughs of powers which they now exercise. At the end of the two years, each of the remaining authorities should have been able to make the necessary staff arrangements, and the committee recommend that any authority, whether of a county or borough, in whose area the work is insufficient to justify the employment of at least three qualified inspectors (and preferably more) should take steps to combine with another authority so that an inspectorate of an efficient size can be created. The committee estimates roughly that eventually about 140 local administrative units would survive—in place of the 258 now entitled to enforce the Weights and Measures Acts. Proposals are added to confer on the Board of Trade adequate powers to secure local efficiency. For this purpose the Board should employ travelling supervisory officers and the machinery of local inquiry should be strengthened. The service should continue to be financed out of local funds, and local authorities should continue to receive verification fees.

The committee rejects suggestions made by certain local authorities in Scotland that there should be a contribution from the central government towards administrative costs; and dissents from proposals made by the Institute of Weights and Measures Administration and by certain local authorities' associations that appointments and dismissals of inspectors should be subject to Board of Trade approval. Nor does the committee accept the suggestion that the approval of the Board of Trade should be obtained before a local authority entrusts ancillary duties to inspectors of weights and measures. In these respects, the committee has shown that it attaches a special value to local control and to preserving what it calls " the local touch."

ENFORCEMENT AND PENALTIES

With the assent of the associations of local authorities, the committee recommends that all local authorities in England and Wales should authorize their chief inspectors to initiate proceedings and should in no circumstances require them first to obtain the consent of local councils or of committees of local councils. This change would relieve individual members of committees, particularly in tightly-knit communities, of what may often be an awkward responsibility. The minimum penalties prescribed for offences under the Weights and Measures Acts are deemed to be inadequate, and the committee suggests the adoption of those laid down in the Food and Drugs Act, 1938, *viz.* (in most instances) £20 for a first offence, £50 for a second offence, and £100 for subsequent offences. There is a novel suggestion in the penultimate paragraph of the report—namely that an unsuccessful prosecutor at petty sessions should have the right of appeal to quarter sessions on questions of fact.

One other point which arises in legal proceedings must be mentioned. It is proposed to extend the safeguards to traders who may be prosecuted, by substituting the " third party " provisions now to be found in s. 83 of the Food and Drugs Act, 1938, for the much less valuable provision made in s. 12 (5) of the Sale of Food (Weights and Measures) Act, 1926, so that any person to whose act or default the alleged contravention is due may be proceeded against directly by the Chief Inspector or may be brought before the court by the defendant. Similarly, defendants should have the benefit of the provisions of the warranty sections of the Food and Drugs Act, which are wider than those now applicable to weights and measures offences.

R.A.R.

BAR FINAL

What matter now that I was nearly last
I found the pass-word hard—but still I passed,
I've no old College but I'm on a par
With those who LLB'd it to the Bar.

J.P.C.

THE RENT CONTROL ACTS, 1946 AND 1949

A NEW PATH TO JUSTICE

By L. G. H. HORTON-SMITH, *Barrister-at-Law*

We must all, I think, feel deeply indebted to Lord Meston, a member of the Bar, for his most illuminating article, entitled "*Order of Certiorari*" at 115 J.P.N. 86, *ante*; and all the more so, in that the adoption of his closing suggestion therein would at last open the path to justice for all—landlords and tenants alike—at the hands of Rent Control Tribunals administering the Rent Control Acts, 1946 and 1949.

JUDICIAL CALL FOR AN APPELLATE COURT: MARCH, 1950

It will be remembered that, in March, 1950, that which many well conversant with these Acts had long been expecting came at last to pass, namely: an authoritative judicial call for the creation of an Appellate Court from these tribunals. It came in *R.* v. *Brighton and Area Rent Tribunal: ex parte Marine Parade Estates* (1936), *Ltd.*, decided by Lord Goddard, C.J., and Humphreys and Jones, JJ., under the Act of 1949, on March 29, 1950, and reported in *The Times* of the following day and, later, in L.R. 1950 2 K.B. 416; [1950] 1 All E.R. 946; 114 J.P. 242; and 66 2 T.L.R. 9.

Unhappily, that call passed unheeded. For, when on April 27, 1950, Mr. John Hay, M.P., in the House of Commons, asked the then Minister of Health "whether he would introduce legislation to give a right of appeal from the decisions of local rent tribunals to a central appellate tribunal," his answer was: "No." Indeed, he went further. For, in answer to further questions in this regard, he said: "On the whole, I think the experience of these rent tribunals has been very satisfactory." Asked, then, whether he was aware that "on March 29 the Lord Chief Justice himself recommended that this particular matter should be dealt with," his only reply was: "This is the House of Commons."

Such answers must have brought immense relief of mind to rent control tribunals. For, what at that time was—and indeed today still is—their position in law?

"THE ABSOLUTE MASTERS OF THE SITUATION," JULY, 1946, ONWARDS

That was laid down by the High Court in the very first case which came before it under the Act of 1946, the *Kendal Hotels* case, decided by Lord Goddard, C.J., and Cassels and Hallett, JJ., on March 11, 1947, reported in *The Times* of the following day and, later, in 97 L.J. 137, and [1947] 2 All E.R. 448. Therein the Lord Chief Justice said in terms: "We have no jurisdiction to act as a Court of Appeal ... Parliament has chosen to make" these tribunals *the absolute masters of the situation* and to leave the decision of these cases to them without appeal, and we can only assume that they will act properly, but, whether they do or not, it is not a matter on which it would be useful for us to give a decision because we have no power to control them as we have of controlling other inferior courts whose decisions we consider by way of appeal. "It"—the decision complained of in this case by way of motion for an order of *certiorari*—"is a perfectly good order on its face, and we have only then to consider whether it was within the jurisdiction of the tribunal to entertain the matter"; and, as to the latter question, he stated: "From the fact that the tribunal were exercising the functions with which they had been entrusted by the Act of Parliament, it follows that it must have been within their jurisdiction to consider it and give a decision." He concluded as follows: "What we are really being asked to say is *either* that they have misconstrued the statute *or* that they have rejected evidence *or* misdirected themselves in some way; but, even if they came to a decision without evidence, that is not a matter on which *certiorari* can be granted, and it follows that this application must fail."

"*Masters of the Situation.*" What tremendous powers to give to these tribunals, each consisting of three members, a chairman and two others, with the decision in each case resting in the hands of any two of the three, so that even if the chairman be a lawyer (which is not always the case) he can be overruled by the two others, neither of whom (save in the case of a few of the tribunals at most) is a lawyer.

Had the Lord Chief Justice's call of March, 1950, for an Appellate Court from these tribunals been followed by the desired legislation, that "Mastery of the Situation" would at last have itself been "mastered."

CORRESPONDENCE IN "THE TIMES": SUMMER, 1950

Here, I would refer in passing, to correspondence in *The Times* of July 22 and 28 and August 1, 1950; the first being a letter from myself, in support of views expressed in *The Times* a few days earlier by Mr. F. R. McQuown. I pointed to the countless errors, alike of law and of fact, committed over the intervening years by these tribunals; and here I may add that many of these have been exposed in the columns of this paper. I further then drew public attention to the fact that in the first above-mentioned case, that of March 29, 1950, the Lord Chief Justice himself—after first pointing out how informal are proceedings under these two Acts and the regulations thereunder—stated in terms that these proceedings are "not conducted in a way which would be tolerated in any ordinary court of law," and followed this up by his above-mentioned call for a right of appeal from the decisions of these tribunals.

This elicited a reply in *The Times* of July 28 from a chairman of one of the London tribunals—a chairman who is not a lawyer—wherein that call of the Lord Chief Justice himself was entirely ignored; and whence it might well have appeared to some that the desire for an Appellate Court emanated merely from Mr. McQuown and myself. Closing with a reference to the delay which is inevitably attendant on any and every appeal, he wrote—in regrettably satiric vein—that such delay "might, every now and then, be just a trifle trying"!

In my reply thereto, in *The Times* of August 1—wherein I dealt with every single point which he had raised (though, for considerations of space, I have not set them all out here)—I wrote, in reference to that closing point, the one vital question to which an answer is so grievously needed, namely: "Which, I would ask in conclusion, is the more important—*finality before a rent tribunal*, or: *justice*?"

To that question no answer was forthcoming from him; but, unless the main characteristic of our race—the desire for justice—has radically changed of late, there could and can be but one answer.

Curiously enough, on the very day whereon he must have been writing his above-mentioned letter—namely, July 27—there appeared in *The Times* a report of another case: *R.* v. *Wanstead and Woodford Rent Tribunal: ex parte Clarke*,

wherein the action of that tribunal was so severely criticized by the High Court—consisting of Lord Goddard, C.J., and Byrne and Finnemore, JJ.—that there arose general expectation that this tribunal would have to resign. But, no. The Minister stated that he had " No desire for the tribunal to resign." (*The Times*, August 10, 1950.)

FRESH JUDICIAL CALL, DECEMBER, 1950

And now we have before us a renewed call from the High Court for the creation of an Appellate Court from these tribunals. The case is that of *R.* v. *City of London, etc., Rent Tribunal : ex parte Honig*, decided by Lord Goddard, C.J., and Hilbery and Parker, JJ., on December 8, 1950, and reported in [1951] 1 All E.R. 195 and (1951) T.L.R. 41. It is a case wherein the court had to deal with " collateral questions " ; and, in such regard, the court held that, though rent tribunals have power to consider and decide " collateral questions " on which their jurisdiction depends, it is open nevertheless to any party complaining of their decision in such regard, to ask the High Court to review the matter on an application for *certiorari*. That actual decision, however—valuable though it be—is not that which concerns us here. That which concerns us is that, here again, the court took the opportunity to renew its earlier and theretofore unheeded, call for an Appellate Court. " I have said on more than one occasion "—said the Lord Chief Justice—" and it is really unnecessary to repeat it, that some day Parliament may consider it desirable that there should be some form of appeal from the decision of a tribunal . . . I can quite understand the view which has perhaps been taken—that there should not be any appeal in these matters—because it was thought, when this legislation was passed, that the tribunals would be tribunals for the benefit of *poor* people " (my italics), whereas " we now know from *R.* v. *Brighton and Area Rent Tribunal : ex parte Marine Parade Estates (1936), Ltd.*," above, of March 29, 1950, " that landlords, who have spent thousands of pounds on property are apt to be brought before the tribunals by tenants who may be professional men and men in receipt of good incomes."

But, alas ! he had to add : " But that is not a matter for us. The fact remains that "—at present—" no appeal is given."

Seeing, however, that this thus renewed and re-emphasized call seems equally certain to remain unheeded—and the more so, inasmuch as the present Government's concern today appears to be confined to the Leasehold Property (Temporary Provisions) Bill of 1950 and to its piloting through Parliament—it becomes yet the more important to consider and ascertain whether these decisions of Rent Tribunals can in some other way be made subject to the authority of the High Court in the absence of any right of " appeal."

THE POSITION AS TO APPEAL: HITHERTO AND STILL

At present, as already shown, there being no right of " appeal " therefrom, any such decision can only be quashed by an order of *certiorari* if it be shown to have been *either* (1) bad on its face, *or* (2) given in a matter outside and beyond the jurisdiction of the rent tribunal complained against.

And this it is which brings us to a consideration of Lord Meston's article, referred to above at the outset.

Let me, then, first refer to the recent and extremely important decision which he cites—albeit not under either of the Rent Control Acts, 1946 and 1949—as to the availability of *certiorari* in cases of what I may call " speaking decisions " on the part of a tribunal.

A NEW PATH OPENED : DECEMBER, 1950

The case was that of *R.* v. *Northumberland Compensation Tribunal : ex parte Shaw*, decided under the National Health Service (Transfer of Officers and Compensation) Regulation, 1948 (S.I. 1948, No. 1475), reg. 10, sch., paragraphs 8 and 9, by Lord Goddard, C.J., and Hilbery and Parker, JJ., on December 14, 1950, and reported in *The Times* of the following day and, later, at 115 J.P.N. 11, *ante*.

In that case the applicant, who was clerk to Gosforth U.D.C., had in 1936 been appointed also as clerk to the West Northumberland Joint Hospital Board, an employment which he held until March, 1949, when it ceased by reason of the National Health Service Act, 1946. He applied to the U.D.C. under the above-named Regulations of 1948 for compensation for loss of that latter employment and contended that, in the assessment of compensation, his service as clerk to the U.D.C. should be taken into account. The U.D.C. rejected that contention, holding that the compensation should be based only on his service as clerk to the Hospital Board. On appeal from that decision to the Northumberland Compensation Tribunal, the latter upheld the U.D.C's. decision. He thereupon sought and obtained leave to apply for an order of *certiorari* to quash the U.D.C's. decision.

The court was faced by two conflicting decisions of earlier years : (*a*) *Walsall Overseers* v. *L.N.W. Rly. Co.* (1878) 4 A.C. 30 ; 43 J.P. 108, a decision of the House of Lords (and *see* also, following thereon, *R.* v. *Nat Bell Liquors, Ltd.* L.R. 1922 2 A.C. 128 at pp. 155 *seq.*, a decision of the Privy Council) ; and (*b*) *Racecourse Betting Control Board* v. *Secretary of State for Air*, L.R. 1944 Ch. 114, and [1944] 1 All E.R. 60, a decision of the Court of Appeal.

The court held that : (1) on the construction of the regulations the tribunal was bound to take into account the whole of the applicant's local government service ; (2) that, although the tribunal was one set up by statute and had not exceeded its jurisdiction, the Divisional Court nevertheless had power to review the tribunal's order *in a case (such as the present) where the tribunal had set out reasons for its decision*, and that on this point the court must disregard the decision of the Court of Appeal in (*b*) above—by which the Divisional Court would normally have been bound—and must follow, instead, the decision of the House of Lords in (*a*) above. In consequence the court ordered that *certiorari* should issue.

" SPEAKING DECISIONS "—THEIR EFFECT

It will thus be seen that the power of the court in this case to entertain the clerk's application was due—and solely due—to the tribunal having *set out the reasons for their decision*. It was, in other words, not merely a decision but a " *speaking decision*."

The above-mentioned decision in the House of Lords was upon a rating matter, wherein a Court of Quarter Sessions had fixed a certain rate. It is vital to observe what Earl Cairns, L.C., said in that case. " The Court of Quarter Sessions, *like every other inferior court in the Kingdom*, was open to this proceeding," *i.e., certiorari*. " If there was upon the face of the order of the Court of Quarter Sessions anything which showed that that order was erroneous, the Court of Queen's Bench might be asked to have the order brought into it, and to look at the order, and if the court found *error upon the face of it*, to put an end to its existence by quashing it ; not to substitute another order in its place, but to remove that order out of the way, as one which should not be used to the detriment of any of the subjects of Her Majesty."

It was then that the Lord Chancellor stated that " there was still another mode by which any question of law which appeared to the Court of Quarter Sessions doubtful might be left open for the exercise of the judgment of a higher court." " All that was necessary," he said, " was that the Court of Quarter Sessions,

in making its order, *should not make it an unspeaking or unintelligible order*, but should in some way state upon the face of the order the elements which had led to the decision of the Court of Quarter Sessions. *If the Court of Quarter Sessions stated upon the face of the order, by way of recital, that the facts were so and so, and the grounds of its decision were such as were so stated*, then *the order became on the face of it a speaking order* ; and if that which was stated upon the face of the order, in the opinion of any party, was not such as to warrant the order, *then* that party might go to the *Court of Queen's Bench* and point to the order as *one which told its own story*, and ask the Court of Queen's Bench to remove it by *certiorari* and, when so removed, to pass judgment upon it, *whether it should or should not be quashed*."

In the later case, following the same lines, Lord Sumner, delivering the judgment of the Privy Council (L.R. 1922, 2 A.C. 128, at pp. 156 *et seq.*), and referring to what Earl Cairns had thus stated, said : " It is to be observed on this passage that *the key of the question* is the *amount of the material stated on the record returned and brought into the superior court. If justices state more than they are bound to state*, it may, so to speak, be used against them, and *out of their own mouths they may be condemned*."

To avoid any misconception, however, Lord Sumner was careful to point out that the jurisdiction of the superior court only extended to seeing that the inferior court had itself not exceeded its own jurisdiction ; for the jurisdiction of the former was that " of supervision " and " not of review." And in such regard he added : " That supervision goes to two points : *one* is the area of the inferior jurisdiction and the qualifications and conditions of its exercise ; *the other* is : *the observance of the law in the course of its exercise*."

EXTENSION OF CERTIORARI THEREBY

Lord Meston—to recur now to his article mentioned above at the outset—is right in stating that the decision of the Divisional Court in the *Northumberland Compensation Tribunal* case of December, 1950, above, will cover a very wide field of tribunals. As shown by the Court of Appeal in *R.* v. *Electricity Commissioners ; ex parte London Electricity Joint Committee* (1920), *Ltd. and Others*, L.R. 1924 1 K.B. 171, and 88 J.P. 13—which he aptly cites—the procedure of *certiorari* applies in many cases in which the body whose acts are criticised would not ordinarily be called a court, nor would its acts be ordinarily termed " judicial acts." Pointing out, quite rightly, that this last expression is used in contradistinction to ministerial acts—to which latter the process of *certiorari* does not apply—Lord Meston writes : " In short, there must be the exercise of some right or duty to decide in order to provide scope for a writ of *certiorari* at common law " (now an order of *certiorari*). And then come his closing words, which, for their great value, must here be repeated in full and they merit the widest publicity. " Many tribunals," he writes, " have been established since that case " —the case last mentioned above—" was decided in 1924, and probably those which affect most the lives of the people are *the rent tribunals from whom no appeal lies in the ordinary sense*. Invite such a tribunal to make ' *a speaking order* ' and "—then—" there may be *some hope in future for those parties who are dissatisfied with the tribunal's decision* and who, in the past, were unable to carry their case any further."

TRIBUNALS' UNDISCLOSED ERRORS IN LAW

There is, and can be, no question but that in many instances hitherto these rent tribunals, whilst acting within the limits of the jurisdiction given to them by Parliament, have yet committed errors of law in arriving at their decision. Many such errors throughout the past four and a half years have been brought to light and exposed in the columns of this paper.

The non-lawyer chairman of a tribunal, to whose letter in *The Times* of July 28, 1950, I have already above referred, made therein the astonishing statement that " Rent tribunals do not give decisions of law or of fact ; their decisions are the fixing of reasonable rents." But, in seeking to do the latter, they cannot help taking both law and fact into consideration and guide themselves accordingly. And in so doing they may easily misguide themselves, especially as to law.

Has not this, indeed, long been recognized by the High Court to be the case ?

True, that in the *Kendal Hotels* case of March, 1947, above—the first case to come before that court under the Act of 1946—the court, much to the disappointment of the profession, refrained from giving any guidance to the rent tribunals.

But, two months later, in the *Ascot Lodge* case, decided by Lord Goddard, C.J., and Atkinson and Oliver, JJ., on May 8, 1947, and reported in *The Times* of the following day and, later, in [1947] 2 All E.R. 12, the Lord Chief Justice, with the concurrence of his brethren, took occasion (at p. 14) to make—*expressly* " *for the guidance of these rent tribunals* "—his invaluable First Set of Six Observations, which I set out, *seriatim*, in my article entitled as of the Act of 1946 and sub-entitled " 1947 in Retrospect," which appeared at 112 J.P.N. 182, *et seq.* All six of these were direct guidance as to the law which these tribunals must apply. Why were these observations necessary, save that the court was obviously beginning to doubt whether the rent tribunals were not misguiding themselves, as to the legal matters wherewith he thus dealt, in arriving at their decisions ?

By 1949 the court found itself impelled to give yet further guidance as to the law which rent tribunals must apply in arriving at their decisions. The occasion was taken so to do in the *Bell London & Provincial* case, decided by Lord Goddard, C.J., and Humphreys and Birkett, JJ., on March 18, 1949, and reported in 65 T.L.R. 200. Indeed, in this case, the Solicitor-General himself, Sir Frank Soskice, K.C., who appeared for the tribunal therein concerned, himself invited the court to express an opinion as to the true interpretation of the Act " *for the guidance of tribunals*."

There, thus, then followed Lord Goddard's equally invaluable Second Set of Six Observations—wherein only one, the second, was repeated from his First Set—each and all of them laying down for the tribunals the view of law which in divers regards they must apply in arriving at their decisions. These will all have been found set forth, *seriatim*, in my article entitled as of the Act of 1946 and sub-entitled " The True Light That Cometh In," which appeared at 113 J.P.N. 461 ; and I need not therefore repeat them here.

And quite recently, the court—with both the Act of 1946 and that of 1949 before it—felt impelled yet once again to give guidance to rent tribunals in *R.* v. *Paddington, etc., Rent Tribunal : ex parte Holt*, decided on January 24, 1951, and reported at 115 J.P.N. 89 *et seq.* In this case the Court directed them that : " Where educated people, professionally advised, have agreed between themselves a rent for a lease for a number of years a tribunal should regard that rent as the fair rent."

In view of all the foregoing I cannot conceive that the above-mentioned non-lawyer chairman of a rent tribunal would now have the temerity to repeat his statement that " rent tribunals do not give decisions of law or of fact. For they inevitably have to decide on both, before they give their actual decision as to what they may regard as the " reasonable rent."

The trouble, however, is that rent tribunals so very rarely give their decisions in the form of "speaking decisions"; and, consequently, as mere decisions, they are "good on their face." There being no right of appeal—in the ordinary meaning of that term—open under the Rent Control Acts, 1946 and 1949 to a dissatisfied party in any case, neither in *such* case—*i.e., that of a "non-speaking decision"*—is even the remedy by way of *certiorari* open to such party. So long as that "non-speaking decision" be a decision on a matter within the jurisdiction of the tribunal, it stands untouchable.

THE NEW PATH AND A CALL TO HONOUR

If, therefore, legislation for the creation of an Appellate Court—as twice at least called for by the Lord Chief Justice himself, with the entire concurrence of his equally experienced brethren—is still to be withheld, some other course must be followed. And it is in this regard that, as I said at the outset, Lord Meston has opened another and a different path to justice for all—landlords and tenants alike—at the hands of the seventy or more rent tribunals administering these Acts of 1946 and 1949 throughout both England and Wales.

I confess that I know of no means whereby tribunals can be compelled to give their decision in the form of "speaking decisions," save by amendment of the present regulations ministerially made under the Act.

Short, however, of that, may we not still rely on honour? Just as a Court of Quarter Sessions can by means of a "Case Stated," in response to request from either party, enable their decision to be taken up to the High Court, so, too, may we not now trust to the sheer and simple honour of rent tribunals to give "speaking decisions," in response to request from either party, so that such decisions may likewise be taken up to the High Court in the manner suggested by Lord Meston?

Thus, at last, would the supreme desire of the community at large be finally achieved. That desire can be expressed in a single word. It is: *Justice.*

WEEKLY NOTES OF CASES

COURT OF APPEAL

(Before Lord Asquith, Birkett, L.J., and Harman, J.)
April 11, May 10, 1951

WILLIAM CORY & SON LTD. *v.* CITY OF LONDON CORPORATION

Contract—Repudiation—Anticipatory breach—Contract with corporation for removal of refuse—Undertaking by contractors to observe byelaws—Sealing of new byelaws by corporation to be effective two years later—Substantial additional burden on contractors—Whether sealing of new byelaws amounted to anticipatory breach of contract.

APPEAL from a judgment of LORD GODDARD, C.J., reported 114 J.P. 422.

By a contract dated December 17, 1936, and made between the City of London Corporation and the contractors, the contractors undertook to remove refuse from the city of London and to comply with the byelaws of the port health authority for the city of London as to removal of refuse. In 1948, while the contract still had some twenty years to run, the corporation, in their capacity of port health authority, made byelaws, to come into force on 1st November, 1950, which would materially increase the burden on the contractors. It was conceded by the corporation that the contractors could treat the contract as frustrated by this change of circumstances when the new byelaws came into force, but the contractors sought to treat the making of the byelaws as an anticipatory breach of the contract by the corporation, entitling the contractors to repudiate the contract forthwith.

LORD GODDARD, C.J., held that the sealing of the byelaws was not a repudiation of the contract. On appeal by the contractors,

Held, it would be illegal for the corporation to contract not to exercise their statutory duty of making byelaws; there could not be a breach of a term of a contract, express or implied, which was illegal; and, accordingly, the corporation had not committed a breach of contract and the contractors were not entitled to repudiate before the date of frustration.

Appeal dismissed.

Counsel: *Sir Walter Monckton, K.C.*, and *Harvey, K.C.*, for the contractors; *Harold B. Williams, K.C.*, and *Wilfrid Hunt* for the corporation.

Solicitors: *E. F. Turner & Sons; City Solicitor.*

(Reported by C. N. Beattie, Esq., Barrister-at-Law.)

KING'S BENCH DIVISION

(Before Slade, J.)
May 1, 2, 1951

MANTON *v.* BRIGHTON CORPORATION

Local Government—Borough council—Membership of committee—Member appointed for one year—Power of council to remove before year expired.

ACTION for a declaration and for an injunction.

The plaintiff was an alderman of the county borough of Brighton. At the annual general meeting of the county borough council on May 25, 1950, he was appointed to three committees "for the period ending with the next annual meeting of the council" under standing orders which provided for the appointment of standing committees "for the ensuing year." On December 21, 1950, the council appointed an *ad hoc* committee to inquire into the plaintiff's conduct in relation to the allocation of housing accommodation at the disposal of the council, and on March 29, 1951, they resolved that the committee's report, which contained a recommendation that the plaintiff "should no longer serve on any committee of the council," be adopted. Thereafter the council treated the plaintiff as having been removed from the three committees. The plaintiff claimed (i) a declaration that he was entitled to continue to exercise all his rights and privileges as a member of the committees in question until his term of membership thereof expired and a declaration that the resolution of the council was *ultra vires* and of no legal effect; and (ii) an injunction to restrain the council from interfering with his exercise of his rights and privileges as a member of such committees.

Held, the council were entitled to revoke the authority conferred on their committees, and were, therefore, also entitled to determine the appointment to a committee of an individual member before the expiration of his period of office; and, further, no special form of determination being required, the resolution effected this purpose.

Counsel: *Pollock, K.C.*, and *Norman F. Stogdon*; *Lamb, K.C.*, and *J. P. Widgery.*

Solicitors: *Haslewood, Hare & Co.*, agents for *Bosley & Co.*, Brighton; *Sharpe, Pritchard & Co.*, agents for *J. G. Drew*, Brighton.

(Reported by F. A. Amies, Esq., Barrister-at-Law.)

NEW COMMISSIONS

LINCOLN (KESTEVEN)

Mrs. Edith Maud Christian, The Cottage, South Rauceby, Sleaford.
Joshua Thomas Parratt, 156, Grantham Road, Sleaford.
Lt.-Col. William Reeve, Leadenham House, Lincoln.
Mrs. Esther Jane Sherwood, Station House, Ancaster, Grantham.

MIDDLESEX COUNTY

Henry George Gange, 68, Grant Road, Wealdstone.
Mrs. Alice Lydia Speechley, 103, The Greenway, Ickenham.
Dr. Jeremy Noah Morris, M.R.C.S., L.R.C.P., 81, Platts Lane, N.W.8.

STOKE-ON-TRENT BOROUGH

Geoffrey Hall Adams, Brendon, Lichfield Road, Stone, Staffs.
Edward Thomas Averill, 82, Biddulph Road, Chell Green, Stoke-on-Trent.
Eustace William Brain, Brook House, Barlaston, Stoke-on-Trent.
Mrs. Margaret Hilda Joan Davies, 65, Victoria Road, Tunstall, Stoke-onTrent.
Mrs. Anne Reid, 18, Lilleshall Road, Newcastle, Staffs.

TEWKESBURY BOROUGH

Mrs. Ethel Mason Knoyle, Queen's Close, Priors Park, Tewkesbury, Glos.
John Osborne Martin, 49, Church Street, Tewkesbury, Glos.

MISCELLANEOUS INFORMATION

THE HOME SECRETARY ON THE CARE OF CHILDREN

Mr. J. Chuter Ede, the Home Secretary, in speaking on the sixth report of the work of the Children's Department of the Home Office, said that the department had to deal with those children who had lost the advantage of understanding, interest, affection and security that home life should mean, and had to be brought up in the care of a local authority or voluntary organization. The other main branch of the department's work—juvenile delinquency—centres round the failure of the family to exercise its civilizing influence on children.

At the end of 1949, there were just over 55,000 children in the care of local authorities, and at the end of 1950 about 59,000, in addition to the 29,000 children in the care of voluntary organizations—and the department (which had been concerned, principally with the implementation of the Children's Act, 1948), had to ensure a good standard of care for these children, and to secure as far as possible for every child the chances and opportunities available to children living in their own homes with good parents.

These days, it was generally accepted that the best substitute home, and the form of care most nearly approaching normal home life, is with good foster-parents who would bring a child up as though he were their own. The expansion of boarding out had received a lot of attention in the past three years, and since 1946, when the Curtis Committee reported, the proportion of children boarded out by local authorities with foster parents had increased from about twenty-nine *per cent.* to thirty-seven *per cent.* But is was impossible to board all children out, and a start had been made of providing new family group homes, taking up to about twelve children of both sexes and a wide age range. In these, it was possible to create an environment more homely and less institutional.

There were 174 nurseries in national assistance institutions in 1948, and now there were seventy-four. This represented a great step forward, since these nurseries were one of the most unsatisfactory features of the provision for children which existed before the 1948 Act came into force. The first reception centres had now been established and represented a gratifying advance on the old arrangements under which, only too often, children were sheltered and cleaned up in the workhouse when they came into care. The regulations on the administration of children's homes and the accompanying memorandum would be issued soon.

With regard to children neglected or ill-treated in their own homes, experience had shown that neglect was commonly due, not to lack of affection or callousness, but to the inability of over-burdened mothers, often handicapped by low intelligence or ill-health, to cope with their household duties. The " Mayflower " Salvation Army training home at Plymouth, where neglectful mothers were trained to look after their children, was a venture of interest and value in this connexion. (Later, in reply to a question put by a representative of this journal, the Home Secretary said that he would welcome the establishment of further homes of this description, and in suitable cases the Home Office would make a financial contribution towards their cost—but he thought that such homes should be organized and managed by voluntary organizations rather than by local authorities.)

As to the subject of juvenile delinquency, the number of cases requiring treatment was a matter of grave concern. The number of persons under seventeen found guilty of indictable offences rose seriously in 1948, and although it fell in 1949, towards the end of 1949 and during 1950, the figure again rose. The reason for this increase was obscure, and the report not only recognized the problems of improving methods of diagnosis and treatment, but also recognized that the causes had come to be a subject demanding systematic study and research.

The Home Secretary concluded by saying the report revealed substantial progress, although there was still more to learn and much to be done.

CARE OF CHILDREN REPORT

The sixth report on the work of the Children's Department of the Home Office differs from previous reports in the series in that it includes an account of the arrangements made by local authorities, as well as by voluntary organization, for the care of children deprived of a normal home life, central responsibility for whom was concentrated in the Home Office following the recommendations of the Curtis Committee and the passing of the Children Act, 1948.

The Curtis Committee regarded the children's officer as the pivot of the child care arrangements, the vital link between the local authority and the child, and the report states that whilst it would be unrealistic to suggest that all children's officers appointed possess in combination the high qualities specified by the Curtis Committee, the standard was generally high and reflected the care taken in local authorities in making the appointments. About two-thirds of the children's officers were women, and most had had university training.

A local authority is under the duty to board out a child in their care unless this is not practicable or desirable for the time being, and it is interesting to see in this report the wide fluctuation in the percentages of children boarded out—the percentages vary among counties from seventy-three *per cent.* to eleven *per cent.*, and among county boroughs from sixty-eight *per cent.* to nine *per cent.* Boys appear harder to board out than girls, the respective percentages being twenty-nine *per cent.* as opposed to forty-two *per cent.*

Fifteen reception centres have been opened in various parts of the country since the Children Act came into force, and it is emphasized in the report that there is a real need for them to be established in each area. In such centres, pleasant and homelike, and staffed by a skilled and specialized staff, children should pass after being studied as individuals, and assessments made of their minds and characteristics, before being boarded out or placed in a children's home.

Of the 136 approved schools in England and Wales (ninety-three for boys and forty-two for girls), twenty-eight are administered by local authorities and 108 by voluntary managers, and the report states that, within the framework of the statutory rules governing their management and subject to financial control from the Home Office, the managers are encouraged to develop this work of the schools on individual lines. It is estimated that there is about sixty-six *per cent.* success with boys and eighty *per cent.* with girls, the basis being the comparison of the numbers of boys and girls found guilty of an offence, on appearance before a court, during the three years following their release from an approved school with the total number of boys and girls leaving approved schools.

On the subject of remand homes, the report states that in recent years, with the increased understanding of the contribution that psychology can make, there has been a growing tendency on the part of the courts to remand children in custody for examination and report by a psychologist or psychiatrist before deciding on the most appropriate treatment. The contribution of the remand home lies in the day to day observation of these traits of character, behaviour and personality revealed by a young offender's attitude to his fellows, to his work, and to the various new interests which the life of the home offers. It lies, too, in providing, in an atmosphere of ordered routine and discipline, suitable and satisfying activities in the hope that a boy or girl may begin to discover in himself or herself some latent capacity or enthusiasm which will help in the process of rehabilitation or the restoration of self-confidence.

PERSONALIA

APPOINTMENTS

Mr. R. H. K. Wickham, T.D., clerk and solicitor to the Gipping R.D.C., since 1945, has been appointed clerk and solicitor to the Wimborne and Cranborne R.D.C. His place is being taken by Mr. E. Harwood, LL.B., A.C.I.S., Mr. Harwood is deputy clerk and solicitor to Godstone R.D.C., and prior to this he was chief assistant to the town clerk of Kendal and assistant clerk to the Castleford U.D.C.

Mr. Charles H. Matthews, senior assistant solicitor at East Ham, and formerly at West Hartlepool, has been appointed clerk to the Blaydon Urban District Council.

Mr. Douglas P. Sewell, M.B.E., solicitor of Ashford, has been appointed deputy electoral registration officer and deputy acting returning officer for the Ashford Parliamentary Constituency, in succession to Mr. John W. Kennard, solicitor, who has resigned the appointments. Mr. Kennard has carried out the duties of both offices since 1926.

RESIGNATION

Mr. L. Hewitt, town clerk of Brackley, is resigning his appointment in order to take up an appointment in the city treasurer's department in Capetown.

OBITUARY

Mr. Maurice Pulliblank, of Wedmore, formerly coroner for North Somerset, died recently. Mr. Pulliblank had formerly practised as a solicitor at Merthyr Tydfil.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 29.

SILENCE IS NOT ALWAYS GOLDEN

In May, 1951, a farmer appeared at Gainsborough Magistrates' Court to answer a charge that he had failed to disclose the name of the driver of his car which, the police alleged, had been involved in a collision, contrary to the provisions of s. 113 (3) of the Road Traffic Act, 1930.

For the prosecution, it was stated that on a night in February last, a van was being driven towards the centre of Gainsborough when the driver saw a car approaching driven in a zig-zag manner. Although the driver of the van went on to the pavement he was unsuccessful in avoiding a collision, and after the collision the car sped away on the wrong side of the road. At the scene of the accident, the police found a car hub cap, wheel disc and pieces of glass. Later the same night, a police sergeant visited defendant's home and, after asking him if he was the owner of the car of which the number had been taken, requested the name of its driver an hour earlier. The defendant declined to make any statement or give any information regarding the car or the driver, and refused to accompany the police sergeant to examine the car, which was found to have a hub cap and disc missing as well as a broken lamp glass. The defendant was asked for an explanation and replied: "I don't wish to say anything: nothing at all; it is not necessary." The parts from the car had been examined at the police forensic laboratory and found beyond question to have come from the car. The police several times requested the defendant to reveal the name of the driver of the car on the night of the collision, but defendant remained obdurate.

The defendant was represented before the justices by a solicitor who pleaded guilty and had nothing to say on behalf of the defendant.

The chairman, announcing that the bench took a very serious view of a case in which the police were being deliberately obstructed in the normal performance of their duties, stated that the defendant would be fined £20.

COMMENT

It will be recalled that subs. (3) of s. 113 provides that where a driver of a vehicle is alleged to be guilty of an offence under the Act the owner of the vehicle shall give such information as he may be required by the police to give as to the identity of the driver. The subsection also provides that any other person shall, if required as aforesaid, give similar information.

The maximum punishment for a first offence is £20, and in the case of a second or subsequent offence three months' imprisonment or a fine not exceeding £50.

(The writer is indebted to Mr. Lawrence Sandwell, clerk to the justices, Gainsborough, for information in regard to this case.)

No. 30.

JEWELLERS ATTEMPT TO AVOID PAYMENT OF CUSTOMS DUTY

Two Swansea jewellers appeared before the local stipendiary magistrate, Mr. H. Llewelyn Williams, K.C., on March 7, 1951, each to answer an alleged infringement of s. 186 of the Customs Consolidation Act, 1876. The first jeweller was alleged to have knowingly kept uncustomed goods, to wit, 157 foreign manufactured watches with intent to defraud His Majesty of the duty due thereon, and in the case of the second jeweller it was alleged that he had similarly kept 175 foreign manufactured watches.

For the prosecution, it was said that the first jeweller was visited by representatives of the Special Investigation Branch of the Customs and Excise in November last. He told them he was a manufacturer's representative and sold a "bit of everything" he could buy. He was asked if he sold watches and he replied: "No."

A suitcase was found when his house was examined, and watches were found inside it. He said he had an invoice for the watches and produced the purchasing invoice. He was asked if he had more watches and said: "No." The premises were further examined, and twenty-two watches were found in a wardrobe in the bedroom. In addition more watches were found hidden in the pantry in a cardboard gas mask box; under a cloak in the coal cupboard and in the linen cupboard. Currency to the value of £300 was found in the wardrobe and a further £1,700 in notes in a box of firewood in the coal cupboard.

Defendant, further questioned by the officers, said: "I wish I knew you were coming; I would have hidden them."

For the defendant who pleaded guilty it was stated that defendant had a small business and sold fancy goods. He tried to peddle the watches and was what they called a "packman."

The learned stipendiary magistrate stated that defendant had perpetrated an obvious fraud, and he ordered him to pay £2,255 within seven days or to serve twelve months' imprisonment in default of payment.

In the case of the second jeweller, the watches were found in his shop, and he had no records to show whence they came. Defendant stated that he had bought them from different people who came into his shop and he did not know the names of the suppliers.

The learned magistrate, stating that defendant did not care whether the watches were obtained legally or not and that he had been selling watches in a disgraceful manner in order to supply his family and himself with extra money, ordered him to pay £2,348 within seven days or to serve twelve months' imprisonment.

COMMENT

In the case of the first defendant the sum equal to treble the value of the goods including duty payable thereon amounted to £2,348 and in the second case the comparable figure was £2,255.

It will be recalled that by virtue of the provisions of s. 15 of the Finance Act, 1935, and s. 12 of the Finance Act, 1943, the Commissioners Customs and Excise may elect to sue for a sum equal to treble the value of the goods.

PENALTIES

Brecon County Magistrates' Court—April, 1951—(1) illegally slaughtering six sheep (four charges), (2) unlawfully supplying and selling the meat (two charges)—fined a total of £18. To pay £4 costs. Defendant, a farmer, stated that he killed the sheep because three were giddy and the others had been injured.

King's Lynn—April, 1951—damaging the window of a public house—fined £5. To pay £1 11*s.* costs. Defendant and his brother refused to leave licensed premises after hours when requested, and defendant smashed the window.

Manchester—April, 1951—treating a boy of six in a manner likely to cause him unnecessary suffering and injury to health—one month's imprisonment. The boy, who lived with the defendant, broke defendant's pipe and threw it in the fire. Defendant lost his temper and struck the boy in "a most cowardly and cruel manner" about the face with a dog-lead cutting and bruising the face.

Oxford—April, 1951—allowing a chimney to catch fire and burn—fined 10*s.*

Oxford—April, 1951—stealing a 2*s.* piece—fined £1—defendant a sixty-five year old hospital cleaner with one previous conviction for theft.

Lambeth Magistrate's Court—April, 1951—(1) careless driving, (2) failing to report an accident—(1) fined £3. To pay £3 3*s.* costs. (2) fined £2. Defendant stated he saw a figure fall near the front of his car but he did not think his car had anything to do with the fall.

Oxted—April, 1951—(1) driving a car while under the influence of drink, (2) dangerous driving—(1) fined £40. (2) fined £20—Licence suspended for twelve months. Defendant, a forty-one year old building manager, drove into a stationary bus at twenty-five m.p.h. Defendant pleaded mental black-out.

Marlborough Street Magistrate's Court—April, 1951—(1) travelling on the tube beyond the distance for which he had paid with intent to avoid payment of the additional fare—(2) giving the ticket collector a false name and address. Fined a total of 40*s.* To pay £1 1*s.* costs. Defendant stated he committed the offence for a 1*s.* bet.

THE NARK'S PHILOSOPHY

Life in the Underworld's hectic and hard:
It's better be bought by—than caught by—the Yard.

J.P.C.

TO A CORPULENT CLERK

You're an object of distaste,
Most of you has gone to waist
And now with quite indecent speed
The rest of you is going to seed.

J.P.C.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Adoption—*Illegitimate child of married woman—Consents required.*

A married woman, upon being interviewed with reference to her consent to the adoption of her child, states that the child was "illegitimate" and gives the name and address of the father. Her husband deserted her approximately one year before the birth of the child.

(1). What consent or consents are necessary?

(2). On what grounds can the court dispense with such consent or consents? SION.

Answer.

The child is presumed legitimate until the contrary is proved. Therefore we think the husband of the mother must be asked for his consent and be served with notice. If at the hearing it is proved that he is not the father, his consent will not be necessary. If such proof is not forthcoming, his consent can be dispensed with if the court is satisfied that he has abandoned the infant or that his consent is unreasonably withheld, Adoption Act, 1950, s. 2 (4) and 3 (1).

Unless the alleged putative father has been made liable to contribute to the maintenance of the infant, under an order or agreement, his consent is not required by s. 3 (1) and no notice need be served on him.

2.—Bastardy—*Defendant about to leave for Australia—What steps can be taken.*

In 103 J.P.N. 347 you expressed the opinion that an affiliation order could not be enforced against a defendant who had gone to reside in South Africa. In one case I am dealing with, I am advised that the defendant intends to emigrate to Australia in the near future, and it would be most helpful if you could give your opinion as to what action (if any) I ought to take, and whether there are now means by which payments under an affiliation order can be enforced against a defendant residing in Australia. SONS.

Answer.

Affiliation orders are expressly excluded from the operation of the Maintenance Orders (Facilities for Enforcement) Act, 1920, *see* s. 10 of that Act. We cannot advise on the law of Australia, but we know of no means by which an affiliation order made in England can be enforced in Australia.

It would be prudent to take steps to have the summons served on the defendant before he leaves the country, so that an order may be obtained if possible, and it could be enforced if he returns to this country.

3.—Children and Young Persons Act, 1933—*School Reports under s.* 35 (2)—*Privilege.*

At a conference on juvenile delinquency the local authority raised the question whether school reports signed by the headmaster concerning boys appearing before the juvenile court are privileged. I should be grateful if you would kindly let me have your opinion on this point together with any authorities there may be. ASHOL.

Answer.

In our opinion such reports are privileged, and an action would not lie for libel. The reports are made on behalf of the local authority, which has a duty under s. 35 (2) to supply information to the court, including information as to the character of the juvenile and his home surroundings. In *Winfield on Tort* 4th edn. p. 283, it is said that whatever is stated in judicial proceedings is absolutely privileged, provided it has some reference to the inquiry in hand, whether made orally or in documentary form.

Moreover, there is, apart from such absolute privilege in judicial proceedings, the qualified privilege of statements honestly made by a person who is under some duty, legal, moral or social, to communicate some matter to another person, *see Winfield* p. 293, citing Lord Greene, M.R., in *De Buse* v. *McCarthy* [1942] 1 All E.R. 19; Parke, B., in *Toogood* v. *Spyring* (1834) 1 C.M. and R. 181, 193, and Scrutton, L.J., in *Watt* v. *Longsdon* (1930) 142 L.T. 4.

4.—Contract—*Houses built under licence—Requirement of resale to council.*

In view of the shortage of technical staff in the borough surveyor's department, the council have been in the habit of including, in the advertisements inviting applications for such appointments, an offer of a council house as an inducement to would-be applicants. Building licences have quite readily been granted, during the course of their employment to such employees so housed, since the council's attitude is that a council house is thereby released, but now, when the owner takes up an appointment with another authority the council are seeking to control the disposal of such a house built under licence, so that it is either purchased by the council at the controlled price for subsequent re-sale or at least so that the house is sold to a council nominee, again at the controlled price. It appears that an appropriate condition could not be inserted in the building licence, since s. 7, Building Materials and Housing Act, 1945, as amended by s. 43, Housing Act, 1949, only permits the insertion of two registrable conditions, namely as to selling and letting price. Moreover, it seems that while an appropriate condition could be inserted among the conditions of employment, subject to which a particular appointment is made, there would be difficulty in enforcing it, for the courts might regard it as a subterfuge for enforcing conditions prohibited as mentioned in the preceding paragraph. AST.

Answer.

We do not see how this condition can be enforced. As stated in the query, it is beyond the scope of the Building Materials and Housing Act, 1945. A condition in a contract of employment can (after the employment has ceased) be enforced, if at all, by injunction or by recovery of damages. Suppose an injunction to be sought to compel the ex-employee to sell: injunction is a discretionary remedy, and we cannot see any court compelling a man to part with his home (bought with his own money) because he has changed his job. As for damages for breach of the contract for resale, what loss could the council prove? In other words, damages would be in reality a penalty, and as such unenforceable. The manner in which the courts would look on such a contract can be deduced from *Morris* v. *Saxelby* (1916) 114 L.T. 618, and other cases noted therewith in the text books, upon restraint of trade as between master and servant.

5.—Criminal Law—*False pretences—Sale of stolen property to innocent purchaser.*

Recently, a defendant was convicted of cycle stealing and, when sentenced, requested a number of cases of cycle stealing and false pretences to be taken into consideration.

The circumstances of the false pretences were that, after stealing a bicycle, the defendant sold the machine to an innocent purchaser, falsely pretending that the bicycle was his own. The justices took the cases of larceny into consideration, but refused to consider the case of false pretences, holding that there was no false pretence.

At another court, the defendant was charged with larceny of two fowls and false pretences. In this case, the defendant stole the fowls and sold them to an innocent purchaser, falsely stating that he was selling them on behalf of his mother.

The defendant was convicted on both charges and sentenced.

I should be grateful if you could express an opinion as to whether an offence of false pretences is committed when a person who steals property later disposes of it to an innocent purchaser by falsely pretending that it is his property or that he is authorized to dispose of it.

Any reference to cases dealing with this particular point would be appreciated. STATS.

Answer.

We have not been able to trace a case on this particular point, and this may be because it might generally be considered that where a conviction for larceny had been obtained there was no particular advantage in preferring a further charge of false pretences. However, we think that if a false statement or representation, as described in the question, could be proved to have induced an innocent and unsuspecting purchaser to part with his money a charge of false pretences could properly be preferred. Indeed, it might be argued that in the ordinary every day sale and purchase of goods the vendor may be taken as representing that he has a legal right to sell the property, but this could not well be acted upon where there was any reason for regarding the transaction as unusual or open to suspicion.

6.—Highway—*Rural district—Removal of lamp post.*

At a road junction in a village there is a lamp post for electric street lighting, with a large kerb round the base, about eight feet in diameter. The lamp post was placed on the highway by the lighting authority, which is now the rural district council. The county council, as the highway authority, desires to improve the road junction by constructing a refuge, on which would be placed a street lamp in place of the existing lamp, which would have to be removed together with the

kerb round it. The rural district council object to the scheme as a whole and wish to retain the existing lamp and its kerb. Have the county council power to carry out their road scheme and insist upon the removal of the existing lamp and kerb? Presumably the cost of the work would fall upon the county council. APO.

Answer.

In principle, no: *see* 113 J.P.N. 17, where the principle is stated in answer to P.P. 3. Whether the kerb should be treated as part of the lamp, or as (possibly) an illegal obstruction, or as part of the highway, is a question of fact, which involves looking into what happened when it was put there.

7.—Husband and Wife—*Maintenance order—Wife becomes insane—Liabilities of husband under order whilst wife who is in State mental hospital—Variation of order—Service of summons.*

I was interested in P.P. No. 4 at 115 J.P.N. 63.

Would you not consider that here is a situation where s. 8 of the Money Payments (Justices Procedure) Act, 1935, proves of value and a protection to some extent to the man concerned. True, there could be no remission of the whole or any part of arrears unless and until some action was taken, as for instance, the man being called upon to pay up the arrears, if those arrears accrued during the period while his wife was a patient maintained free under the National Health Insurance Act, and the circumstances were such that he could not properly apply to the court for a reduction in the amount of his order. I feel that under circumstances such as these, it would be a proper application of the section quoted if the justices used the power to remit arrears there given to them. This does not, of course, deal strictly with your correspondent's problem, but does it not provide an alternative remedy? I shall be glad of your comments hereon. SOL.

Answer.

We certainly agree that if proceedings were taken for the recovery of arrears s. 8, *supra*, could be used in the interests of the husband.

8.—Licensing—*Application for new on-licence coupled with surrender—Whether necessary to mention proposed surrender in notices of application.*

A firm of brewers is to apply for a full on-licence in place of a beer and wine licence, and propose to surrender another beer licence at the same time under s. 73 of the Finance Act, 1947. Is it necessary to specify the other premises in the notices of the application for the new licence, or does "the application" mean the verbal application made in court.

Subsection 4 (*a*) says: "An application . . . may be made . . . at the general annual licensing meeting"—from this it might appear that the word "application" does not include the notice of application. NAR.

Answer.

In our opinion, s. 73 (2) (*b*) (*i*) of the Finance Act, 1947, requires that the premises the licence of which is proposed to be surrendered shall be specified in the notice of application. We do not think it possible that the section would place such stress on "the other premises being specified in the application" if the design were merely that the licensing justices should be informed of it in an oral way.

Subsection 4 (*a*), to which our correspondent directs our notice, refers to an application not for a new licence but for the determination of the monopoly value on a licence proposed to be surrendered.

9.—Licensing—*Renewal of old on-licence—Objection on grounds which enable licensing justices severally to refuse renewal or refer for compensation—Procedure.*

At the next general annual licensing meeting my licensing justices will instruct the superintendent to object to the renewal of certain old on-licenses and give notice to the licensees to attend the adjourned meeting.

The grounds of objection in each case are:

(1) Structural deficiency or unsuitability (upon which renewal may be refused).

(2) Redundancy or other grounds (upon which renewal may be referred to the compensation authority).

In the event of a refusal and an appeal to quarter sessions:

(a) Can quarter sessions allow the appeal and refer?

(b) If an appeal against refusal is allowed and renewal granted by quarter sessions can the licensing justices then refer at their adjourned meeting: if so what further notices are necessary: or are they not *functi officio* and must they not then wait until next year?

(c) Where there is an objection to renewal on grounds which include as well the right of refusal and the right to refer can the licensing justices:

(i) Make a finding that both grounds exist, and that the licence is refused? Can an order be so framed that a reference is or can be made effective if refusal fails on appeal?

(ii) Make a finding that grounds for refusal exist, refuse renewal and subject thereto adjourn the consideration of the grounds for reference (so far as material) to a later date under s. 16 (4) of the 1910 Act?

(iii) Can you refer me to any authorities or articles on the subject of these alternatives in the *J.P. and L.G.R.*? NOBEL.

Answer.

(a) No. Quarter sessions have jurisdiction only to allow or disallow the appeal against refusal to renew. If the appeal is allowed the licence stands renewed.

(b) No. The licence having been renewed, by operation of the appeal against refusal having been allowed, it cannot then be referred.

(c) (i) and (ii). No. Renewal cannot at the same time be refused and referred to the compensation authority. The two proceedings are inconsistent with each other.

(c) (iii). We cannot. We have never encountered either case law or article on this novel point. We refer our correspondent to r. 41 of the Licensing Rules, 1910, which prescribes the procedure for the provisional renewal of a licence referred to the compensation authority: reference to the compensation authority means in terms that the licensing justices pass on their renewing functions to that authority. If renewal is refused there is nothing left to refer.

10.—Licensing—*Transfer—From present holder to present holder jointly with partner.*

AB has lodged an application for the transfer of a full on-licence from AB to AB and CD, presumably on the grounds that he is taking CD into partnership (although I have reason to believe that it is being done primarily to give CD the right to apply for occasional licences in respect of outside catering and that CD will not in fact take any part in the management of the licensed house).

On referring to sch. 4 of the Act of 1910 I cannot find any ground upon which the application for transfer can lawfully be granted—the only part of the schedule which seems to apply being "occupation of the premises given up by the holder of the licence or his representatives."

It is my contention that as AB will remain in occupation this part of the schedule does not apply.

Do you agree? OSWI.

Answer.

Where licensed business is to be conducted by a firm of which the present licence-holder is a partner, we think that the transfer of the business from the licence-holder in person to himself and another in partnership sufficiently amounts to occupation of the premises being given up by the individual and being taken over by the partnership to satisfy the terms of the fourth case mentioned in the sch. 4 to the Licensing (Consolidation) Act, 1910. It is no longer necessary for a licence-holder (or, *a fortiori*, both of two joint licence-holders) to be actually resident on the licensed premises, and the expression "occupation" falls to be construed accordingly.

In our opinion, the licensing justices have power, in their discretion, to grant the transfer that is sought. The licence may be held jointly by more than one person, being partners in carrying on the business, and in practice licences are often so held (*See* Excise Licences Act, 1825, s. 13; Interpretation Act, 1889, s. 1 (1) (*b*).) If, as our correspondent says, the licensed business is planned to develop by carrying on outside catering under the authority of occasional licences, there seem to be features which strengthen the desirability of having joint licence-holders conducting the business.

11.—Magistrates—*Practice and procedure—Probation—Enforcement of costs under the 1946 Act—Enforcement in a case dealt with before that Act came into force.*

1. In the 82nd edn. of *Stone* (1950) at p. 149, note H, it states clearly that an order for payment is enforceable by imprisonment, failing distress; (this is of course in reference to an order for payment of damages or compensation). How does this fit in with the remarks of Lord Goddard, C.J., on the question of the enforcement of an order for the payment of damages or compensation in the case of *R.* v. *Parry and Others* [1950] 2 All E.R. 1179; 115 J.P. 14?

2. On December 8, 1948, a defendant is placed on probation under a probation officer for two years and ordered to pay court costs amounting to £2 5*s.* and a sum of 18*s.* 6*d.* witness costs, together with a sum of £1 10*s.* for compensation. The charge was larceny. It will be observed that the probation period has now expired. The money is still unpaid. What steps can now be taken to recover the amount?

J. SOMME.

Answer.

1. It has to be remembered that the Lord Chief Justice in *R.* v. *Parry*, *supra*, was dealing with a case which had been heard at Quarter Sessions, and he does not seem to have been concerned in any way with procedure under the Summary Jurisdiction Acts. In these circum-

stances, we think it can still be argued that the view expressed in *Stone*, to which reference is made in the question, is correct so far as summary proceedings are concerned.

2. This order was made under the provisions of the Probation of Offenders Act, 1907, as amended, and we think that the procedure for enforcement is regulated by the Summary Jurisdiction Act, 1848, ss. 19 to 21. We dealt with the matter in some detail in a reply to a P.P. at 107 J.P.N. 202, P.P. No. 3.

12.—Public Health Act, 1936, s. 346—*Byelaws under earlier Acts—Clearance of snow from footpaths or pavements.*

I enclose a copy of byelaws made in 1880 by the local board, acting as the sanitary authority for this urban district, (a) requiring the occupiers of premises abutting on any street to remove snow from footways and pavements adjoining such premises as soon as conveniently may be after the cessation of any fall of snow, and (b) imposing a penalty for non-compliance with this requirement. The byelaws, from which this extract was taken, were presumably made under the provisions of s. 44 of the Public Health Act, 1875, and were allowed by the Local Government Board in May, 1880. The county council has delegated to my council under s. 55 of the Local Government Act, 1929, the functions of the county council with respect to the maintenance, repair, and improvement of classified roads. Having regard (i) to s. 81 and (ii) to proviso (*a*) to s. 346 (1) of the Public Health Act, 1936, will you please advise whether the byelaws above referred to for preventing nuisances from snow on footpaths are enforceable by my council under s. 251 of the Local Government Act, 1933 : (i) in respect of footpaths adjoining classified roads, and (ii) in respect of other footpaths within the urban district. AVE.

Answer.

Your putting the question in 1951 suggests that these byelaws of 1880 have not been enforced in recent years. If they are to be now enforced, it is for the district council to do so, not as a highway authority but as public health authority. There is for this purpose no difference between classified roads and others. The district must, however, be one of very few where byelaw 1 (requiring occupiers of premises to remove snow from footways and pavements), has remained in force, even nominally. Byelaws made seventy years ago must need overhauling, and this particular byelaw was recognized more than a generation ago to be quite out of harmony with twentieth century possibilities. Almost everywhere, it has been repealed by the local authority, or revoked by a county review order or the like. We suggest that your council should repeal it before next winter. (Not improbably, other clauses of the byelaws of 1880 than those you sent us, *e.g.*, clauses about animals are also obsolete and should be repealed.)

13.—Public Health Act, 1936—*Private sewer—Obligation to repair.*

A private builder built a number of houses in 1946 and provided a drainage system in the method shown on the enclosed sketch. As will be seen the six inch pipe was laid through the private gardens at the rear of the houses and connected to the sewer on the main highway, the house drains for each dwelling being connected to the six inch pipe at intervals. The reason for constructing the six inch pipe at the rear was that the houses were at a lower level than the intended street. The six inch pipe is now in an unsatisfactory state and requires partly relaying. I should be pleased to be advised, having regard to the absence of a declaration under s. 17, whether my council have any actual or moral obligation F.P.

Answer.

No legal obligation, beyond that of taking appropriate steps for having the pipe put right by the person or persons liable. Nor do we see any moral obligation on the council to spend public money on a pipe which seems to be a typical private sewer. It was with the object of preventing local authorities from becoming liable for pipes laid like this one (until they accepted liability under s. 17), that the law was changed by the Act of 1936.

14.—Quarter Sessions—*Constitution of court—Justices who acted as examining justices and committed defendant for trial.*

Justices who sit in petty sessions as examining justices on cases which are subsequently committed for trial at quarter sessions, upon the establishment of a *prima facie* case, sometimes find themselves adjudicating in the same cases when they later attend the quarter sessions to which such cases have been committed. Is it right and legal that they should so sit and adjudicate and if so, can you point to any legal authority or ruling in this matter. WPP.

Answer.

We cannot quote authority, but we think it is rather for those who challenge such a practice to support their attitude by authority.

When it is remembered that it is the jury, and not the justices, who find the verdict, and that the principal responsibility of the justices at quarter sessions is in the matter of sentences, it seems to us that there is no serious objection to the presence on the bench of justices who took part in the committal. However, we are aware that in some counties the courts are arranged so that this does not happen, and it may be that it creates a favourable impression and is therefore desirable.

15.—Road Traffic Acts—*Agricultural tractors—Vehicles (Excise) Act, 1949, s. 4 (2) (a) as amended by Finance Act, 1950, s. 13—Haulage by farmer of logs for sale within fifteen mile radius of his farm—Appropriate rate of duty.*

Section 4 (2) (a) of the Vehicles (Excise) Act, 1949, as now amended, reads as follows: This section applies to the following mechanically propelled vehicles, that is to say:

(a) locomotive plough engines, tractors, agricultural tractors and other agricultural engines which are not used on public roads for hauling any objects except as follows, that is to say,

(iii) for hauling, within fifteen miles of a farm in the occupation of the person in whose name the vehicle is registered under this Act, agricultural or woodland produce of that farm, or agricultural or woodland produce of land occupied with that farm or fuel required for any purpose on that farm or for domestic purposes by persons employed on that farm by the occupier of the farm.

The point at issue is can a farmer use his agricultural tractor and trailer, for which he has taken out a £2 licence under s. 4, for the purpose of hauling sawn wood blocks from his farm to customers living in nearby towns or villages? (Within the fifteen miles radius, of course.) The firewood has been grown on the farm and sawn into blocks also on the farm.

It would appear from the wording of the first half of para. (iii) above that such use is covered by the £2 licence. JUSTA.

Answer.

We think that the amendment made by s. 13 of the 1950 Act allows the use of the vehicle, under the £2 licence, for the purpose suggested. Our view is strengthened by s. 13 (4) (b) by which "woodland produce" is to include "the wood and the produce of trees which are not woodland trees."

16.—Road Traffic Acts—*Electrically propelled milk float—C licence—Requirements as to records of work.*

A firm of retail milk distributors operate their business partly by the use of electrically propelled floats, the drivers of which walk behind, or in front of the vehicles, and are not carried. The vehicles are registered and licensed by the county council, and also operate under a C licence, *vide* s. 7 (4), Road and Rail Traffic Act, 1933. Recently one of these vehicles was found to be in use with the hand brake broken and inoperative. No records of work have at any time been kept by the driver, or caused to be kept by the owners of the vehicle.

It appears that offences under the above regulations have been committed by both the driver and the owners of the vehicle, although at the time the regulations were made this particular type was not existent.

The owners of the vehicle contend that records of work are not required to be kept in respect of this type of vehicle, and your views in this connexion will be appreciated. JOAS.

Answer.

We can find no general exemption from compliance with the Keeping of Records Regulations. The licensing authority has power, under s. 16 (3) of the Road and Rail Traffic Act, 1933, and subject to the provisions of reg. 9, to dispense with the observation of any requirements of the regulations. Applications for such dispensation must be made in accordance with reg. 9.

17.—Summary Jurisdiction—*Appearance by solicitor—Inquiry into defendant's past record.*

I am interested in your reply to P.P. No. 9 at 115 J.P.N. 80, in which you say that, if the defendant is represented by counsel or solicitor, it is equivalent to appearance in person and the court can make the same inquiries into the defendant's past record in the one case as in the other. This may be technically so, but the principal item of the defendant's past record is his list of previous convictions, if any.

Now I have always understood that, unless these convictions are admitted by the defendant, the police must not give the court particulars of them unless they are prepared there and then to strictly prove them. In the ordinary case before the magistrates, the police are not prepared to prove them; it is quite evident that if the defendant is not there, he cannot admit them, and therefore it seems to me that even if he is represented by counsel or by a solicitor, the police cannot give particulars of previous convictions unless they are prepared there and then to strictly prove them.

Although, therefore, your reply may be technically correct, in practice unless the defendant is present the police are precluded from giving his past record so far as this includes previous convictions; do you agree? JAND.

Answer.

If a defendant appears by an advocate his advocate may well have been (and in practice often is) instructed as to any relevant previous convictions. The advocate is then able to state in court that on his instructions the convictions read out by the police are correct. If the advocate is not so instructed he can make no admission, and any convictions relied upon must be proved.

Even if the defendant appears in person we doubt if the police would often be in a position then and there to prove any previous conviction which the defendant did not admit. We agree that it is often difficult, if not impossible, to *prove* a previous conviction in the defendant's absence.

We may add that, in our view, if liability to a greater maximum punishment depends on a previous conviction, it is not always safe for the court to rely upon an admission as to that previous conviction, because it is important to have proved exactly what offence the previous conviction was for.

18.—Tort—*Condition of wall—Responsibility after excavation.*

In this non-county borough is an unadopted passageway at the rear of certain residential premises. The residential premises are fenced off by an old wall which is at least four inches out of plumb and leans towards the passageway but is not in its present state dangerous. It appears that the wall has been in that condition for a number of years. From observations it would seem that the edge of the foundation nearest to the passageway has sunk uniformly along the length of the wall thus causing it to tilt. The width of the passageway is approximately four feet and through the middle at an approximate depth of six feet runs a public sewer.

It is necessary to expose the sewer for about ten feet of its length and the resulting trench will be approximately three and a half feet wide and six feet deep. However carefully such trench is made and however efficient the subsequent filling in and reinstatement it is more than probable that the wall will be affected, and even if the wall does not subsequently collapse it may become slightly more out of plumb, which will bring it then into the "dangerous" category.

The owner contends that as the wall is not likely to fall down at the present time he must hold the local authority responsible should it subsequently collapse as a result of the operation; on the other hand the borough surveyor feels that he could undertake the work without fear of any damage if the wall was in normal condition and quite vertical.

Will you kindly advise as follows:

(a) Whether the council are responsible for rebuilding the wall if it should collapse or become in a dangerous state after making the trench.

(b) If the position will be the same if the work is carried out when the provisions of the Public Utilities Street Works Act, 1950, are in force, having regard to the proviso to s. 18 (1) of that Act. ELAS.

Answer.

(a) In our opinion the owner's contention is sound. As we understand the facts, the sewer is vested in the council but otherwise the soil of the passage is not. They have an easement or quasi-easement to disturb the soil for gaining access to the sewer. That soil may or may not belong to the adjoining owner. Whether as against him the council's excavating it would, but for their easement, be trespass or merely be nuisance if they damaged him, the easement cannot entitle them to damage him. The recital suggests that the wall has been there long enough for a presumptive right to support: *Dalton* v. *Angus* (1881) 46 J.P. 132; *Southwark and Vauxhall Waterworks* v. *Wandsworth Board of Works* (1898) 62 J.P. 519. Moreover, the dominant tenement is entitled to support in its present condition: *Dalton* v. *Angus, supra*; *Richards* v. *Rose* (1853) 18 J.P. 56.

(b) This part of the query apparently assumes that the owner of the wall also owns or controls the passageway, and so is a "street manager." This may be so, but, even so, we cannot see any "misconduct or negligence" on his part. The query states that the wall is not dangerous, and he is under no obligation to make it plumb, or to give it special support for the benefit of the council's operations in his land. If the soil overlying the sewer is not his, s. 18 of the new Act will not apply.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

CUMBERLAND COUNTY COUNCIL

Appointment of Local Land Charges, etc., Clerk

APPLICATIONS are invited for the appointment of a clerk for administrative duties primarily in connexion with Local Land Charges Register at a salary within Grade II—£420 to £465 per annum.

Closing date for applications June 9, 1951. For particulars apply to the undersigned.

G. N. C. SWIFT,
Clerk of the County Council.

The Courts,
Carlisle.

BOROUGH OF WIDNES

Appointment of General and Committee Clerk

APPLICATIONS are invited for the above appointment in Grade A.P.T. II of the National Scheme of Conditions of Service.

The Council have not yet considered the recent recommendations of the National Joint Council but upon those recommendations being adopted the proposed increase will apply to this appointment, the salary for which will then be £470 × £15—£515 per annum.

Applicants must be able to undertake Committee work and assist in the general administrative duties of a Town Clerk's Department.

The appointment is subject to the successful applicant passing satisfactorily a medical examinaton, to the National Scheme of Conditions of Service as adopted by the Council, and to one month's notice on either side.

Applications, stating age, qualifications and experience, and the names of two persons to whom reference may be made, must reach the undersigned not later than Wednesday, June 13, 1951.

Canvassing will disqualify.

FRANK HOWARTH,
Town Clerk.

Town Hall,
Widnes.

BOROUGH OF WEDNESBURY

Appointment of Deputy Town Clerk

APPLICATIONS are invited from solicitors for this established appointment at a salary according to A.P.T. Grade VIII of the National Scales (£735—£810) plus a car allowance if appropriate. Previous local government experience is desirable but is not a condition of appointment.

The appointment is subject to the National Scheme of Conditions of Service, to the Local Government Superannuation Act, 1937, to a medical examination and to termination by two months' notice in writing at any time on either side.

Applications, stating age, education, qualifications, experience (especially in conveyancing and advocacy), present and previous appointments, and the names and addresses of three persons to whom reference can be made, endorsed "Deputy Town Clerk," must be delivered to the undersigned not later than June 16, 1951.

G. F. THOMPSON,
Town Clerk.

Town Hall,
Wednesbury.
May 22, 1951.

DOWN COUNTY WELFARE COMMITTEE

Appointment of County Staff

APPLICATIONS are invited from persons possessing the prescribed qualifications for the following separate posts:

(1) **County Welfare Officer**

Candidates must be qualified in accordance with S.R. & O. (N.I.) 1947, No. 20, and must—

(*a*) possess a diploma (or its equivalent) in social science or in social studies from a recognized University; or

(*b*) be a graduate of at least three years' standing of a recognized University and have passed in economics or sociology in his final examination; or

(*c*) have had adequate and suitable experience in welfare work under a Government Department, local authority, or recognized voluntary agency; or

(*d*) have carried out original research of recognized value in social and economic problems.

Salary is on the scale £750 × £50—£1,000 per annum, and in fixing the starting point regard will be had to the experience, qualifications, and present position of the successful applicant.

The position offers an opportunity for social welfare work of a high order over a county with a population of 240,000.

(2) **Children's Officer**

Candidates must be qualified in accordance with S.R. & O. (N.I.) 1950, No. 130, and must—

(i) possess a degree, diploma or certificate in social science or in social studies from a recognized University; or

(ii) be a graduate of at least three years' standing of a recognized University, and have passed in economics in his final or an earlier examination; or

(iii) possess a diploma or certificate in general social work or education or the care of children, or such other qualification as may from time to time be recognized by the Ministry of Home Affairs for Northern Ireland, and have also adequate and suitable experience of child welfare work in a Government Department, local authority or recognized voluntary agency; and

(iv) have had adequate and suitable administrative experience.

Salary is on the scale £500 × £25—£600 per annum, and in fixing the starting point regard will be had to the experience, qualifications, and present position of the successful applicant.

This is a responsible position involving the care and supervision of children in the County in respect of whom the Welfare Authority have duties and functions under the Children and Young Persons Act (N.I.), 1950, and the Adoption of Children Act (N.I.), 1950.

Both appointments will be subject to the provisions of the Local Government (Superannuation) Act (N.I.), 1950.

Forms of application and conditions of appointment for each post may be obtained on request, accompanied by a stamped, addressed foolscap envelope, and completed forms of application must be lodged with the undersigned not later than June 23, 1951.

J. C. PANTRIDGE,
Secretary.

143 Royal Avenue,
Belfast.
May 24, 1951.

BOROUGH OF BROMLEY

Legal Assistant

APPLICATIONS are invited from Solicitors for the appointment of Legal Assistant at a salary in accordance with Grade A.P.T. V(a) (£600—£660) of the National Scales of Salaries with the addition of London weighting. Experience in local government is not essential.

The successful candidate will be required to pass a medical examination and the appointment will be terminable by one month's notice on either side.

Applications, endorsed "Legal Assistant," and stating age, with full particulars of qualifications and experience, together with the names and addresses of two persons to whom reference can be made, must be delivered to the undersigned not later than June 30, 1951.

Canvassing, directly or indirectly, will be a disqualification.

S. CRITCHLEY AUTY,
Town Clerk.

Municipal Offices,
Bromley, Kent.
May 28, 1951.

COUNTY OF ESSEX DIVISION OF BEACONTREE

Senior Probation Officer

APPLICATIONS are invited from men or women officers, for the above whole-time appointment at a salary in accordance with the Probation Rules, 1950, with an allowance of £50 a year in addition to the salary and a Metropolitan addition of £30 a year. The appointment will be subject to medical examination.

Applications, together with copies of two testimonials, must reach the undersigned by June 25, 1951.

H. G. BARROW,
Secretary to the Probation Committee.

The Court House,
Great Eastern Road, Stratford, E.15.

COUNTY BOROUGH OF BARNSLEY

Appointment of Assistant Solicitor

APPLICATIONS are invited for the position of Assistant Solicitor in the Town Clerk's Department, at a salary based upon Grade V(a), VI or VII, according to the degree of experience of the successful candidate.

Preference will be given to those applicants who have had a good experience in advocacy.

The position will be subject to the Local Government Superannuation Act, 1937, for which purpose the successful candidate must satisfy a medical examination.

The appointment will be subject to two months' notice on either side and conditions of employment will in other respects be in accordance with the Scheme of Conditions of Service, and the staff rules in force within the Corporation from time to time.

Applications, giving age, date of admission, particulars of qualifications and experience, together with the names of three referees, should be made in writing to reach the undersigned not later than June 16, 1951.

Canvassing will disqualify.

A. E. GILFILLAN,
Town Clerk.

Town Hall,
Barnsley.

COUNTY BOROUGH OF GRIMSBY

Second Assistant Solicitor

APPLICATIONS are invited for the above appointment from Solicitors recently qualified or persons awaiting admission.

Salary, Grade V (a), is £600—£660 a year, rising after two years' experience from date of admission to £685—£760 a year. Applicants should be persons with either local government or good general practice experience. The duties of the post are mainly conveyancing and advocacy, but every opportunity will be given for the person appointed to obtain a wide knowledge of local government law and administration.

Forms of application and further particulars can be obtained from me. The closing date for applications is Saturday, June 30.

L. W. HEELER,
Town Clerk.

Municipal Offices,
Town Hall Square, Grimsby.

HERTFORDSHIRE COUNTY COUNCIL

Senior Assistant Solicitors

APPLICATIONS are invited for appointments on the staff of the Clerk of the County Council on Grades IX and X according to experience.

The posts involve responsibility for the work of the office in connexion with certain committees and general duties as required. Local Government experience essential, experience in advocacy desirable.

Applications to the Clerk of the County Council, County Hall, Hertford, by June 23, 1951. No testimonials are required, but the names of three referees must be given.

NEVILLE MOON,
Clerk of the County Council.

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